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United Nations

Report of the Human Rights Committee

Volume I

Eighty-second session
(18 October-5 November 2004)
Eighty-third session
(14 March-1 April 2005)
Eighty-fourth session
(11-29 July 2005)

General Assembly
Official Records
Sixtieth session
Supplement No. 40 (A/60/40)

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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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VII. FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS..

Summary

The present annual report covers the period from 1 August 2004 to 31 July 2005 and the eighty-second, eighty-third and eighty-fourth sessions of the Human Rights Committee. Since the adoption of the last report, two States (Liberia and Mauritania) became parties to the International Covenant on Civil and Political Rights, Honduras became party to the Optional Protocol and San Marino to the Second Optional Protocol, thus bringing the total of States parties to the Covenant to 155, to the Optional Protocol to 105, and to the Second Optional Protocol to 54.

During the period under review, the Committee considered 15 periodic reports under article 40 and adopted concluding observations on them (eighty-second session: Finland, Albania, Benin, Morocco and Poland; eighty-third session: Kenya, Iceland, Mauritius, Uzbekistan and Greece; eighty-fourth session: Yemen, Tajikistan, Slovenia, Syrian Arab Republic and Thailand. See chapter IV for the concluding observations). It further considered one country situation in the absence of a report from the State party and adopted provisional concluding observations in that respect.

Under the Optional Protocol procedure, the Committee adopted 27 Views on communications and declared 3 communications admissible and 38 inadmissible. Consideration of 7 communications was discontinued (see chapter V for information on Optional Protocol decisions).

At its eighty-third session, the Committee authorized the Working Group on Communications to adopt decisions declaring communications inadmissible if all members so agree. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of procedure may decide to declare a communication inadmissible, when it is composed of at least five members and all members so agree. The decision will be transmitted to the Committee plenary, which may confirm it and adopt it without further discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision."

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up on concluding observations, Mr. Maxwell Yalden, presented a progress report during the eighty-second session of the Committee. As of the eighty-third session, Mr. Rafael Rivas Posada became the new Special Rapporteur and submitted a progress report during the eighty-fourth session. The Committee notes with appreciation that the majority of States parties have continued to provide follow-up information to the Committee pursuant to rule 70, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information.

The Committee again deplores the fact that many States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, it therefore adopted a procedure for dealing with non-reporting States. Under this procedure, the Committee at its eighty-third session considered, without a report but in the presence of a delegation, the measures taken by Barbados to give effect to the rights recognized in the Covenant. In accordance with rule 70 of

its revised rules of procedure, the Committee adopted provisional concluding observations on the measures taken by the State party to give effect to the rights recognized in the Covenant, which were transmitted to Barbados.

The workload of the Committee under the Optional Protocol to the Covenant continued to grow during the reporting period, as demonstrated by the large number of cases registered. A total of 112 communications were registered under the Optional Protocol and by the end of the eighty-fourth session, a total of 327 communications were pending (see chapter V).

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. Through its Special Rapporteur for follow-up on Views, Mr. Nisuke Ando, the Committee has continued to seek to ensure implementation of its Views by States parties by arranging meetings with representatives of States parties that have not responded to the Committee's request for information about the measures taken to give effect to its Views, or that have given unsatisfactory replies to its request (see chapter VI).

At the Committee's eighty-third session, Mr. Walter Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to a fair trial). The draft presented by the rapporteur was discussed during the eighty-fourth session.

Throughout the reporting period, the Committee continued to contribute to the discussion prompted by the Secretary-General's proposals for reform and streamlining of the treaty body system. The Chairperson, Ms. Christine Chanet, as well as Mr. Rafael Rivas Posada and Sir Nigel Rodley represented the Committee, respectively at the seventeenth meeting of the chairpersons of human rights treaty bodies (23-24 June 2005) and at the fourth Inter-Committee Meeting (20-22 June 2005).

CHAPTER I. JURISDICTION AND ACTIVITIES

A. States parties to the International Covenant on Civil and Political Rights

1. By the end of the eighty-fourth session of the Human Rights Committee, there were 155 States parties to the International Covenant on Civil and Political Rights and 105 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.

2. Since the last report, Liberia and Mauritania have become parties to the Covenant while Honduras ratified the Optional Protocol.

3. As at 31 July 2005, 48 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant. In this respect, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to use this mechanism, with a view to making the implementation of the provisions of the Covenant more effective. Switzerland notified the Secretary-General of the validity of its declaration under article 41 of the Covenant for a new period of five years starting on 16 June 2005.

4. The Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty entered into force on 11 July 1991. As at 31 July 2005, there were 54 States parties to the Protocol, an increase since the Committee's last report of one: San Marino.

5. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

6. Reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee notes with regret that no reservations to the Covenant were withdrawn during the reporting period, and encourages States parties to consider the possibility of withdrawing reservations to the Covenant. On 17 November 2004, the Government of Mauritania notified the Secretary-General of its accession to the Covenant with reservations to articles 18 and 23, paragraph 4, of the Covenant.[1] On 6 June 2005, the Government of the Netherlands objected to the reservations made by Mauritania. According to the Netherlands, based on the above-mentioned reservations, the application of the articles 18 and 23 of the Covenant has been made subject to religious considerations, making it unclear to what extent Mauritania considered itself bound by the obligations of the treaty and therefore raising concerns as to the commitment of Mauritania to the object and purpose of the Covenant. The Government of the Netherlands noted that its objection to the reservations shall not preclude the entry into force of the Covenant between Mauritania and the Netherlands, without Mauritania benefiting from its reservations. The following Governments objected to the declarations and reservation made by Turkey[2] to the Covenant upon ratification on 23 September 2003: Germany (26 October 2004), Finland (17 November 2004) and Portugal (29 November 2004). The Governments of Germany and Portugal recalled that it is the common interest of all States that treaties to which they have chosen to become parties are respected and applied as to their object and purpose by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under these treaties. While expressing concerns about Turkey's declarations and reservation, the Government of Germany believe that these

declarations do not aim to limit the Covenant's scope in relation to those States with which Turkey has established bonds under the Covenant, and that they do not aim to impose any other restrictions that are not provided for under the Covenant. The Government of Germany also understood the reservation expressed by Turkey to mean that the rights guaranteed by article 27 of the Covenant will also be granted to all minorities not mentioned in the provisions and rules referred to in the reservation. Likewise, the Government of Finland wished to declare that it assumed that the Government of Turkey will ensure the implementation of the rights of minorities recognized in the Covenant and do its utmost to bring its national legislation into compliance with its obligations under the Covenant, with a view to withdrawing the reservation. The Governments of Finland and Germany note that the above-mentioned consideration did not prevent the entry into force of the Covenant between their respective States and Turkey.

B. Sessions of the Committee

7. The Human Rights Committee held three sessions since the adoption of its previous annual report. The eighty-second session was held from 11 October to 5 November 2004, the eighty-third session was held from 14 March to 1 April 2005, and the eighty-fourth session was held from 11 to 29 July 2005. The eighty-second and eighty-fourth sessions were held at the United Nations Office at Geneva, and the eighty-third session at the United Nations headquarters in New York.

C. Election of officers

8. On 14 March 2005, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

9. During its eighty-second, eighty-third and eighty-fourth sessions, the Committee held nine Bureau meetings (three per session), with interpretation. Pursuant to the decision taken at the seventy-first session, the Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

D. Special rapporteurs

10. The Special Rapporteur on follow-up of Views, Mr. Nisuke Ando, continued his functions during the reporting period. During the eighty-second, eighty-third and eighty-fourth sessions, Mr. Ando presented progress reports on his follow-up activities to the plenary. The reports have been consolidated in annex V. During the eighty-second session, Mr. Ando met with representatives of Angola and Madagascar. During the eighty-third session, he met with representatives of Guyana and Tajikistan and during the eighty-fourth session with representatives of Angola, the Libyan Arab Jamahiriya, and the Philippines.

11. The Special Rapporteur on new communications, Mr. Martin Scheinin until the end of the eighty-second session, and Mr. Walter Kälin since then, continued his functions during the reporting period. He registered 112 communications and transmitted them to the States parties concerned, and issued 17 decisions on interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

12. The Special Rapporteur on follow-up to concluding observations, Mr. MaxwellYalden, continued his functions during the first half of the reporting period. During the eighty-second session, he met with representatives of Togo and presented a progress report to the plenary at the same session. During the eighty-third session, his successor Mr. Rafael Rivas Posada met with a representative of the Republic of Moldova. During the eighty-fourth session, a progress report was submitted to the plenary.

E. Working groups and country report task forces

13. In accordance with rules 62 and 89[3] of its rules of procedure, the Committee established a working group which met before each of its three sessions. The working group was entrusted with the task of making recommendations regarding communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.[4] Country report task forces met during the eighty-second, eighty-third and eighty-fourth sessions to consider and adopt lists of issues on the reports of Uzbekistan, Iceland, Mauritius, Greece, Tajikistan, Italy, Thailand, Slovenia, the Syrian Arab Republic, Yemen, Brazil, Canada and Paraguay, as well as on the situation of civil and political rights in Barbados (a non-reporting State).

14. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights.

15. United Nations bodies (the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP)) and specialized agencies (the International Labour Organization (ILO) and the World Health Organization (WHO)), provided advance information on several of the reports to be considered by the Committee. To that end, country report task forces also considered material submitted by representatives of a number of international and national human rights non-governmental organizations (NGOs). The Committee welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

16. At the eighty-second session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Kälin, Mr. Tawfik Khalil, Mr. Rivas Posada, Mr. Scheinin, Mr. Shearer, Mr. Solari Yrigoyen and Mr. Wieruszewski. Mr. Rivas Posada was designated Chairperson-Rapporteur. The Working Group met from 11 to 15 October 2004.

17. At the eighty-third session, the Working Group on Communications was composed of Mr. Ando, Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Kälin, Mr. Tawfik Khalil, Mr. Rivas Posada, Mr. Shearer, Mr. Solari Yrigoyen, Ms. Wedgwood and Mr. Wieruszewski. Mr. Ando was designated Chairperson-Rapporteur. The Working Group met from 7 to 11 March 2005.

18. At the eighty-fourth session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Sir Nigel Rodley, Mr. Solari Yrigoyen, and Mr. Wieruszewski. Sir Nigel Rodley was designated Chairperson-Rapporteur. The Working Group met from 4 to 8 July 2005.

F. Secretary-General's recommendations for reform of the treaty bodies

19. In his second report on further reform of the United Nations system (A/57/387 and Corr.1), the Secretary-General invited the human rights treaty bodies to further streamline their reporting procedures and suggested that, to enable States to meet the challenges they faced under multiple reporting obligations, the States parties to the main human rights instruments be permitted to submit a single or consolidated report which would cover the implementation of their obligations under all the instruments they had ratified. The Committee has participated in and contributed to the discussions prompted by the Secretary-General's proposals. At its seventy-sixth session in October 2002, it set up an informal working group to analyse and discuss the proposals and report back to the plenary at the seventy-seventh session. At its seventy-seventh session in March 2003, the plenary discussed the working group's recommendations. It did not consider the concept of a single or consolidated report to be a viable one, but adopted a recommendation which, if implemented, would enable States parties to submit to the Committee focused reports on the basis of lists of issues transmitted previously to the States parties concerned. This system would be applied after the presentation, by the States parties concerned, of an initial and one periodic report.

20. The Committee was represented at a meeting on treaty body reform which was held at Malbun, Liechtenstein, from 4 to 7 May 2003 (see HRI/ICM/2003/4) as well as at the second,[5] third[6] and fourth Inter-Committee Meetings, respectively held from 18 to 20 June 2003, 21 to 22 June 2004, and 20 to 22 June 2005, where this matter was also given priority consideration.

21. During its eighty-second session, at its 2246th meeting on 1 November 2004, and its eighty-third session, at its 2264th meeting on 21 March 2005, the Committee considered the proposals on guidelines on an "expanded core document" and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties.[7] On 29 March 2005, the Committee held, in particular, a discussion with Mr. K. Filali, Special Rapporteur to follow-up the above-mentioned draft guidelines.

22. During its eighty-fourth session, the Committee agreed to designate Mr. Roman Wieruszewski, to participate in the technical working group, established following a recommendation by the fourth Inter-Committee Meeting to finalize the draft harmonized reporting guidelines for consideration and eventual adoption by each of the committees.

23. In their dialogue with the High Commissioner for Human Rights on 20 July 2005 on the Plan of Action, Committee members showed an open mind to the proposed unified standing treaty body, albeit stressing that at the present stage it was premature to take a final position.

Some Committee members recommended that the peer review mechanism - that would replace the Commission on Human Rights - be complementary to and follow up on the work of treaty bodies. They stressed their wish to be closely consulted.

G. Related United Nations human rights activities

24. At all of its sessions, the Committee was informed about activities of United Nations bodies dealing with human rights issues. In particular, the relevant general comments and concluding observations of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee against Torture were made available to the members of the Human Rights Committee. Relevant developments in the General Assembly and the Commission on Human Rights were also discussed.

25. During the eighty-third session, on 21 March 2005, the Committee held a discussion with Ms. Rachel Mayanga, Special Adviser to the Secretary-General on Gender Issues and Advancement of Women. The Committee welcomed the constructive and open dialogue with Ms. Mayanga, and reaffirmed its willingness to pursue its cooperation with a view to promoting gender issues and women's rights.

26. On 22 March 2005, the Bureau of the Committee held a meeting with the Secretary-General's Special Adviser on the Prevention of Genocide, Mr. Juan Méndez. Mr. Méndez briefed the Bureau on his mandate and activities, and expressed interest in cooperating with the Committee. Following a fruitful exchange of views with Mr. Méndez, the Committee decided to establish a permanent liaison with the Office of the Special Adviser, and designated Mr. Solari Yrigoyen as rapporteur for that purpose. In that context, the Committee adopted the following working methods: while drafting the list of issues, the Committee will take into account any information which helps identifying pre-genocide situations, and will reflect it in its concerns, when adopting concluding observations. The Committee will then forward a copy of these concluding observations to the Office of the Special Adviser.

27. At its eighty-third session, the Committee welcomed the publication by OHCHR and the Human Rights Centre of the University of Chile of the compilation of its concluding observations for the Latin American and Caribbean countries for the period 1997-2004 (also available on the OHCHR website: http//www.ohchr.org). The Committee recommended the translation of the compilation into the other working languages of the Committee. It also recommended extending such compilations to other regions of the world.

H. Derogations pursuant to article 4 of the Covenant

28. Article 4, paragraph 1, of the Covenant stipulates that in time of public emergency, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to the States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.

29. In cases of derogation the Committee considers whether the State party has satisfied the conditions of article 4 of the Covenant and, in particular, insists that the derogation be terminated as soon as possible. When faced with situations of armed conflict, both external and internal, which affect States parties to the Covenant, the Committee will necessarily examine whether these States parties are complying with all of their obligations under the Covenant. On the interpretation of article 4 of the Covenant, reference is made to the Committee's practice under the reporting and the Optional Protocol procedures. The Committee's general comment No. 29, (2001) establishes guidelines that States parties are required to respect during a state of emergency.[8]

30. For States parties to the Covenant, the continued practice of derogations has been frequently a subject of discussion in the context of the consideration of their reports under article 40 of the Covenant and has often been identified as a matter of concern in the concluding observations. While not questioning the right of States parties to derogate from certain obligations in states of emergency, in conformity with article 4 of the Covenant, the Committee always urges States parties to withdraw the derogations as soon as possible.

31. For States parties to the Optional Protocol, the Committee has considered derogations in the context of the consideration of individual communications. The Committee has consistently given a strict interpretation to derogations and, in some cases, has determined that notwithstanding the derogation, the State party concerned was responsible for violations of the Covenant.

32. During the period under review, the Government of Peru notified other States parties, through the intermediary of the Secretary-General, on 5 August 2004, of the adoption of Supreme Decree No. 056-2004-PCM of 22 July 2004, which extended a state of emergency for a period of 60 days. The Government specified that during the state of emergency, the provisions from which it would reserve the right to derogate were articles 9, 12, 17 and 21 of the Covenant.

33. By notifications of 28 October 2004, 16 November 2004, 23 November 2004, 25 January 2005, 31 March 2005, 8 April 2005, 24 May 2005 and 20 July 2005, the Government of Peru extended the state of emergency in different provinces and parts of the country. In these notifications, the Government of Peru specified that the provisions of the Covenant from which it would reserve the right to derogate were articles 9, 12, 17 and 21.

34. On 28 September 2004, the Government of Jamaica notified other States parties, through the intermediary of the Secretary-General, of a proclamation declaring a state of emergency for an initial period of 30 days. The Government of Jamaica informed the Secretary-General that during the state of emergency, the provisions from which it may derogate were articles 12, 19, 21 and 22, paragraph 2, of the Covenant. On 27 October 2004, the Government informed the Secretary-General that the possible derogation from the rights guaranteed by articles 12, 19, 21 and 22, paragraph 2, ceased on 8 October 2004.

35. On 5 May 2005, the Secretary-General of the United Nations was informed that His Majesty the King of Nepal revoked, in accordance with clause (11) of article 115 of the

Constitution of the Kingdom of Nepal, 1990 (2047), the Order of State of Emergency proclaimed on 1 February 2005 in respect of the whole of the Kingdom of Nepal with effect from 29 April 2005.

I. Meeting with States parties

36. On 28 October 2004, during its eighty-second session, the Committee held its third meeting with States parties to the Covenant. The meeting focused on the following themes:

(a) Procedure for the submission of reports and delays in the preparation of reports;

(b) Procedure for dealing with non-reporting States;

(c) Requests for interim measures of protection and States parties' obligation to comply with such request;

(d) Follow-up on concluding observations;

(e) Question of emoluments of the Human Rights Committee;

(f) Follow-up on Views under the Optional Protocol to ICCPR.

37. The meeting was attended by representatives of 64 States parties. State party delegates and Committee members held a constructive dialogue and covered a broad range of issues.

38. Mr. Rivas Posada drew attention to the procedures for the submission of reports and delays in the presentation of such reports. He highlighted the positive experience with the procedure for non-reporting States. One State representative suggested that treaty bodies should make available alternative reports from NGOs to States parties at least three to six months prior to the examination of the report. As for States experiencing difficulties in meeting their reporting obligations, several State representatives considered that the Office of the United Nations High Commissioner for Human Rights (OHCHR) should honour States parties requests for technical cooperation whenever possible.

39. Mr. Scheinin surveyed the positive experience of the Committee with interim measures of protection and underlined that non-respect of requests for interim measures of protection amounted to a breach by the State party concerned of its Covenant obligations. One representative noted that interim measures should always be couched in such terms as to not prejudge the merits of the case at a later stage - to which Committee members agreed - and that there should be a mechanism whereby the request for interim measures could be lifted when appropriate.

40. Mr. Ando provided a detailed account of the history of the Committee's procedure for following up to Views, and the experience under the procedure.

41. Mr. Yalden highlighted the Committee's positive experience with the procedure for following up to concluding observations.

J. General comments under article 40, paragraph 4, of the Covenant

42. At the Committee's eighty-third session, Mr. Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to a fair trial). The draft presented by the rapporteur was discussed during the eighty-fourth session.

K. Staff resources

43. The Committee welcomed the launch of the Global Plan of Action for the Geneva-based human rights treaty bodies and the creation of the Petitions Team within OHCHR. It noted with satisfaction that a senior regular budget position for the team was approved by the General Assembly in December 2003, and that this position has been filled. It further appreciated the addition of another regular budget post to the team in April 2004. The Committee was confident that these additions would help to improve further the services provided to the Committee. It noted that measures have been taken to further reduce the backlog of communications; in addition, measures have been taken to process with the requisite urgency and expediency particular categories of communications. The Committee further noted with satisfaction that the activities of follow-up officers appointed in 2002 and 2003 have assisted it and both the Special Rapporteur for follow-up on concluding observations and the Special Rapporteur for follow-up on Views in the discharge of their respective mandates. Finally, the Committee appreciated the additional assistance provided by OHCHR in New York during its eighty-third session.

L. Emoluments of the Committee

44. The Committee has noted with concern that the emoluments for its members provided for in article 35 of the Covenant have been reduced by General Assembly resolution 56/272 to the symbolic amount of US$ 1. It has decided to keep the matter under review.

M. Publicity for the work of the Committee

45. The Chairperson, accompanied by members of the Bureau, met with the press after each of the Committee's three sessions held during the reporting period. The Committee notes that with the exception of academic institutions, awareness of its activities still remains unsatisfactory and that publicity must be enhanced to reinforce the protection mechanisms under the Covenant.

46. In this context, the Committee notes with satisfaction that press releases summarizing the most important final decisions under the Optional Protocol were issued after the end of each session during the reporting period. This practice helps to publicize the Committee's decisions under the Optional Protocol. The Committee further welcomes the creation and continued development of an electronic listserve, through which its concluding observations on reports examined under article 40 of the Covenant and final decisions adopted under the Optional Protocol are disseminated electronically to an ever-increasing number of individuals and institutions.

47. At its eighty-third session, the Committee agreed that press conferences be prepared sufficiently in advance and that in-session press conferences be organized when relevant. Such press conferences took place during the eighty-fourth session.

N. Publications relating to the work of the Committee

48. The Committee welcomes the publication of a revised Fact Sheet on its activities, published as Fact Sheet No. 15 (Rev.1) by OHCHR. It notes with appreciation that volume 5 of the Selected Decisions under the Optional Protocol will soon be available while volumes 6 and 7 should be ready in 2005 and volume 8 in 2006. Such publications will make the jurisprudence of the Committee more accessible and more visible to the public, including the legal profession.

49. The Committee welcomes the information on publication of its decisions adopted under the Optional Protocol in various databases (see A/59/40, vol. I, annex VII). It appreciates the growing interest in its work shown by universities and other institutions of higher learning. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (www.unhchr.ch) be equipped with adequate search functions.

O. Future meetings of the Committee

50. At its eightieth session, the Committee confirmed the following schedule of future meetings in 2005: eighty-fifth session from 17 October to 4 November 2005. At its eighty-fourth session, the Committee confirmed the following schedule of future meetings in 2006: eighty-sixth session from 13 to 31 March 2006; eighty-seventh session from 10 to 28 July 2006, and eighty-eighth session from 16 October to 3 November 2006.

P. Adoption of the report

51. At its 2308th meeting, held on 28 July 2005, the Committee considered the draft of its twenty-ninth annual report, covering its activities at its eighty-second, eighty-third and eighty-fourth sessions, held in 2004 and 2005. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

Notes

[1] Mauritania - Reservations: "Article 18 […] The Mauritanian Government, while accepting the provisions set out in article 18 concerning freedom of thought, conscience and religion, declares that their application shall be without prejudice to the Islamic sharia - article 23.4 […] The Mauritanian Government interprets the provisions of article 23, paragraph 4, on the rights and responsibilities of spouses as to marriage as not affecting in any way the prescriptions of the Islamic sharia."

[2] Turkey - Declarations and reservation: The Republic of Turkey declares that it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Articles 1 and 2 thereof). The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations. The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied. The Republic of Turkey reserves the right to interpret and

apply the provisions of article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes.

[3] Rule 95 of the revised rules of procedures.

[4] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, para. 56 and annex III, sect. B.

[5] See ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, paras. 63 and 64.

[6] See ibid., *Fifty-ninth Session, Supplement No. 40* (A/59/40), vol. I, paras. 20-23.

[7] See ibid., paras. 21 and 22 and HRI/MC/2004/3.

[8] Ibid., *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex VI.

CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

52. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

53. In March 1999, the Committee decided that the lists of issues for the examination of States parties' reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. Central to the consideration of States parties' reports is the oral hearing, where the delegations of States parties have the opportunity to respond to the list of issues and answer supplementary questions from Committee members. States parties are directed to use the list of issues to prepare better for the constructive dialogue with the Committee. While they are not required to submit written answers to the list of issues, they are encouraged to do so.

54. In October 1999, the Committee adopted new consolidated guidelines on State party reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis, and focused periodic reports geared primarily to the Committee's concluding observations on the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant, and should concentrate on those provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 of 26 February 2001.[1]

55. For several years, the Committee has expressed concern about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.[2] Two working groups of the Committee proposed amendments to the rules of procedure, which are aimed at helping States parties to fulfil their reporting obligations and designed to simplify the procedure. These amendments were formally adopted during the seventy-first session in March 2001, and the revised rules of procedure were issued as document CCPR/C/3/Rev.6 and Corr.1.[3] All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.[4]

56. The amendments introduce procedures for dealing with situations of States parties that have failed to honour their reporting obligations for a long time, or that have chosen to request a postponement of their scheduled appearance before the Committee at short notice. In both

situations, the Committee may henceforth serve notice on the States concerned that it intends to examine, from material available to it, the measures adopted by that State party with a view to giving effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than fixing a set time limit for its next report in the last paragraph of the concluding observations, the State party will be requested to report back to the Committee within a specified period with responses to the Committee's recommendations, indicating what steps, if any, it has taken to give effect to the recommendations. Such responses will thereafter be examined by the Special Rapporteur for follow-up on concluding observations, and result in the determination of a definitive time limit for the presentation of the next report. Since the seventy-sixth session, the Committee has examined the progress reports submitted by the Special Rapporteur on a sessional basis.[5]

57. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. On July 2002, it examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A[6] of its rules of procedure to provide for the possibility of converting provisional concluding observations into final and public ones. At the end of the eighty-first session, the Committee decided to convert the provisional concluding observations of the Gambia into final and public ones since it had failed to submit its second periodic report.

58. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname in the absence of a report, but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations, which were transmitted to the State party. Pursuant to the provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report within the deadline set by the Committee. The Committee considered the second periodic report of Suriname at its eightieth session (March 2004) and adopted concluding observations.

59. At its seventy-ninth (October 2003) and eighty-first (July 2004) sessions the Committee examined the situation of civil and political rights in, respectively, Equatorial Guinea and the Central African Republic, in the absence both of a report and a delegation in the first case, and in the absence of a report but with the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the

eighty-first session, the Committee decided to convert the provisional concluding observations on the country situation of Equatorial Guinea into final and public ones since it had failed to submit its initial report. On 11 April 2005, in conformity with its assurances made to the Committee during the examination of the country situation at the eighty-first session, the Central African Republic submitted its second periodic report.

60. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

61. At its eighty-third session, the Committee examined the situation of civil and political rights in Barbados, in the absence of a report but with the presence of a delegation, which pledged to submit a full report. As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua made assurances to the Committee that it would submit its report by 31 December 2005.

62. At its seventy-fourth session, the Committee adopted decisions which spell out the modalities for following up on concluding observations.[7] At the seventy-fifth session, the Committee designated Mr. Yalden as its Special Rapporteur for follow-up on concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden.

63. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the examination of reports under article 40.[8] The principal innovation consists in the establishment of country report task forces, consisting of no fewer than four and no more than six Committee members who will have the main responsibility for the conduct of debates on a State party report. The Committee notes that the establishment of these country report task forces has enhanced the quality of the dialogue with delegations during the examination of State party reports. The first country report task forces were convened during the seventy-fifth session.

B. Concluding observations

64. Since its forty-fourth session in March 1992[9] the Committee has adopted concluding observations. It takes concluding observations as a starting point in the preparation of the list of issues for the examination of the subsequent State party report. In some cases, the Committee has received comments on its concluding observations and replies to the concerns identified by the Committee under rule 71, paragraph 5, of its revised rules of procedure from the States parties concerned, which are issued in document form. During the period under review such comments and replies were received from Egypt, Iceland, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela. These State party replies have been issued

as documents and are available from the Committee's secretariat, or may be consulted on the OHCHR website (www.unhchr.ch, treaty body database, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

65. The Committee views the annual meeting of persons chairing the human rights treaty bodies as a forum for the exchange of ideas and information on procedures and logistical problems, streamlining of working methods, improved cooperation among treaty bodies, and for stressing the necessity of obtaining adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively.

66. The seventeenth meeting of treaty body chairpersons was convened in Geneva on 23 and 24 June 2005. The Committee was represented by the Chairperson, Ms Christine Chanet.

67. The fourth inter-committee meeting was held in Geneva from 20 to 22 June 2005. It brought together representatives from each of the human rights treaty bodies. The Committee was represented by Mr. Rivas Posada and Sir Nigel Rodley. Discussions focused in particular on the draft harmonized reporting guidelines (see chapter I, sect. F).

D. Cooperation with other United Nations bodies

68. In 1999, the Committee considered its participation in the initiative emerging from the memorandum of understanding signed by OHCHR and UNDP on cooperation over a wide range of human rights issues and activities. The Committee welcomed the fact that, in its development programmes and, in particular, those relating to technical assistance, UNDP took account of the Committee's conclusions arising from its consideration of State party reports. It noted also that in the context of Action 2 of the Secretary-General's report on strengthening of the United Nations: an agenda for further change (A/57/387 and Corr.1), training carried out by OHCHR and other United Nations partners for United Nations country teams (UNCTs) continued to pay particular attention to national-level inputs into the treaty reporting process and the practical utilization of the recommendations of the treaty bodies in United Nations action at the country level. The Committee welcomes the fact that in order to facilitate participation of UNCTs in the reporting process, OHCHR is preparing a "Guidance note" providing practical information on the possibilities for interaction with the treaty bodies throughout the reporting process, ranging from encouraging ratification and reporting to following up on treaty body recommendations, and providing practical examples of past such involvement by UNCTs.

Notes

[1] The *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. A.

[2] See ibid., chap. III, sect. B and *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), chap. III, sect. B.

[3] See ibid., *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. B.

[4] See ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex VI.

[5] Except for the eighty-third session when a new Special Rapporteur was designated.

[6] Now rule 70 of the revised rules of procedure.

[7] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex III, sect. A.

[8] See ibid., vol. I, annex III, sect. B.

[9] See ibid., *Forty-seventh Session, Supplement No. 40* (A/47/40), chap. I, sect. E, para. 18.

CHAPTER III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

69. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's current guidelines, adopted at the sixty-sixth session and amended at its seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee.

A. Reports submitted to the Secretary-General from August 2004 to July 2005

70. During the period covered by the present report, 11 reports under article 40 were submitted to the Secretary-General by the following States parties: Brazil (second periodic), Canada (fifth periodic), Central African Republic (second periodic), Democratic Republic of the Congo (third to seventh periodic), Honduras (initial report), Hong Kong Special Administrative Region of China (second periodic), Kenya (second periodic), Norway (fifth periodic), Republic of Korea (third periodic), Slovenia (second periodic) and Madagascar (third periodic).

B. Overdue reports and non-compliance by States parties with their obligations under article 40

71. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

72. The Committee is faced with a problem of overdue reports, notwithstanding the Committee's revised reporting guidelines and other significant improvements in its working methods. The Committee has agreed that more than one periodic report submitted by a State party may be considered jointly. Under the Committee's reporting guidelines, the date for the submission of the next periodic report is stated in the concluding observations.

73. The Committee notes with concern that the failure of States parties to submit reports hinders the Committee in the performance of its monitoring functions under article 40 of the

Covenant. The list below identifies the States parties that have a report more than five years overdue, as well as those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as at 31 July 2005) or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue
Gambia	Second	21 June 1985	20
Equatorial Guinea	Initial	24 December 1988	16
Barbados	Third	11 April 1991	14
Somalia	Initial	23 April 1991	14
Nicaragua	Third	11 June 1991	14
Saint Vincent and the Grenadines	Second	31 October 1991	13
San Marino	Second	17 January 1992	13
Panama	Third	31 March 1992	13
Rwanda	Third	10 April 1992	13
Grenada	Initial	5 December 1992	12
Bosnia and Herzegovina	Initial	5 March 1993	12
Côte d'Ivoire	Initial	25 June 1993	12
Seychelles	Initial	4 August 1993	11
Angola	Initial/Special	9 April 1993/ 31 January 1994	11
Niger	Second	31 March 1994	11
Afghanistan	Third	23 April 1994	11
Ethiopia	Initial	10 September 1994	10
Dominica	Initial	16 September 1994	10
Guinea	Third	30 September 1994	10
Mozambique	Initial	20 October 1994	10
Cape Verde	Initial	5 November 1994	10
Bulgaria	Third	31 December 1994	10
Iran (Islamic Republic of)	Third	31 December 1994	10
Malawi	Initial	21 March 1995	10
Burundi	Second	8 August 1996	8
Chad	Initial	8 September 1996	8
Haiti	Initial	30 December 1996	8
Jordan	Fourth	27 January 1997	8
Malta	Initial	12 December 1996	8
Belize	Initial	9 September 1997	7

State party	Type of report	Date due	Years overdue
Nepal	Second	13 August 1997	7
Sierra Leone	Initial	22 November 1997	7
Tunisia	Fifth	4 February 1998	7
Turkmenistan	Initial	31 July 1998	7
Zambia	Third	30 June 1998	7
United States of America	Second	7 September 1998	6
Romania	Fifth	28 April 1999	6
Spain	Fifth	28 April 1999	6
Nigeria	Second	28 October 1999	5
Bolivia	Third	31 December 1999	5
Lebanon	Third	31 December 1999	5
South Africa	Initial	9 March 2000	5
Burkina Faso	Initial	3 April 2000	5
Iraq	Fifth	4 April 2000	5
Senegal	Fifth	4 April 2000	5
Algeria	Third	1 June 2000	5
The former Yugoslav Republic of Macedonia	Second	1 June 2000	5

74. The Committee once again draws particular attention to 28 initial reports that have not yet been presented (including the 20 overdue initial reports listed above). The result is to frustrate a major objective of the Covenant, which is to enable the Committee to monitor compliance by States parties with their obligations under the Covenant, on the basis of States parties' reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

75. On 27 July 2004, during its eighty-first session, the Committee addressed a letter to the United States of America, requesting it to submit its overdue second and third periodic reports by 31 December 2004 and/or to submit specific information on the effect of measures taken to fight against terrorism after the events of 11 September 2001 and notably the implications of the Patriot Act on nationals as well as on non-nationals (articles 13, 17, 18 and 19 of the Covenant), as well as on problems relating to the legal status and treatment of persons detained in Afghanistan, Guantánamo Bay, Iraq and other places of detention outside the territory of the United States of America (articles 7, 9, 10 and 14 of the Covenant). On 1 April 2005, during its eighty-third session, the Committee addressed a letter to the United States of America, taking note of correspondence from the State party dated 24 March 2005 concerning the submission of its second and third periodic reports, and welcoming the submission by the United States of America of its report in time for the Committee at its eighty-fourth session. On 22 July 2005, the Committee was informed that the periodic reports would be submitted this year, but not in July 2005. On 28 July 2005, the Committee informed the United States of America that its periodic reports should be submitted by 17 October 2005, starting date of the eighty-fifth session. In the absence of these reports, the Committee would adopt a list of issues on the

specific concerns raised in its letter of 27 July 2004 with a view to examining, at its eighty-sixth session, these and any other matters that might be raised in the reply of the Government of the United States to the list of issues.

76. On 30 July 2004, in conformity with paragraphs 1 and 3 of its concluding observations on the initial report of Serbia and Montenegro, the Committee requested the United Nations Interim Administration Mission in Kosovo (UNMIK) to provide, without prejudice to the legal status of Kosovo, a report on the situation of human rights in Kosovo since June 1999. Three reminders were sent, on 5 November 2004, 1 April and 15 July 2005, in particular to obtain the date of submission of such a report.

77. On 1 April 2005, the Committee addressed a letter to the Government of the Sudan, noting that its third periodic report, which was due by 7 November 2001, had not been received and requesting a specific report by 31 December 2005 on the implementation of articles 6, 7, 8, 9, 12 and 16 of the Covenant, in accordance with paragraph 2 of article 66 of its rules of procedure.

78. With respect to the circumstances that are set out in chapter II, paragraphs 56 and 57, the amended rules of procedure now enable the Committee to consider the compliance by States parties that have failed to submit reports under article 40, or that have requested a postponement of their scheduled appearance before the Committee.

79. At its 1860th meeting, on 24 July 2000, the Committee decided to request Kazakhstan to present its initial report by 31 July 2001, notwithstanding the fact that no instrument of succession or accession had been received from Kazakhstan following its independence. By the time of the adoption of the present report, the initial report of Kazakhstan had still not been received. The Committee once again invites the Government of Kazakhstan to submit its initial report under article 40 at its earliest convenience. In this context, it welcomes the signature of the Covenant by Kazakhstan on 17 November 2003.

CHAPTER IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

80. The following sections, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its eighty-second, eighty-third and eighty-fourth sessions. The Committee urges those States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations.

81. Finland

(1) The Human Rights Committee considered the fifth periodic report of Finland (CCPR/C/FIN/2003/5) at its 2226th and 2227th meetings (CCPR/C/SR.2226 and 2227), held on 18 and 19 October 2004, and adopted the following concluding observations at its 2239th meeting (CCPR/C/SR.2239), held on 27 October 2004.

Introduction

(2) The Committee welcomes the timely submission of the report by the State party in accordance with the guidelines. It notes with appreciation that the report contains useful information on developments in the rights guaranteed by the Covenant in Finland since the consideration of the fourth periodic report. It appreciates the dialogue with the delegation.

Positive aspects

(3) The Committee notes with satisfaction the adoption of:

(a) A new law against discrimination which entered into force in February 2004, banning all direct or indirect discrimination based on age, ethnic or national origin, nationality, language, religion, beliefs, opinions, health, disability and sexual orientation and placing the burden of proof before the courts on the defendant;

(b) New language in the Penal Code punishing trafficking in human beings under chapter 25 of the Code and infringements of personal liberty, and allowing any citizen of the State party who is guilty of trafficking in persons abroad to be prosecuted under Finnish law pursuant to chapter 1, section 7, of the Code, and for international offences, whatever law may apply where the offence was committed;

(c) Steps that have increased the number of women in senior posts within the administration, including the directors of several ministries. These steps should be followed up in order to allow qualified women greater opportunities to occupy decision-making posts.

(4) The Committee is pleased to observe the State party's concern to integrate human rights into action to combat terrorism, in part by maintaining an outright ban on extradition, refoulement or expulsion to a country where the individual concerned might be exposed to the death penalty and violations of articles 6 and 7 of the Covenant.

(5) The Committee emphasizes the positive role played internationally by Finland in the establishment of a European Forum for the Roma.

(6) The Committee welcomes the use of the treaty bodies' concluding observations as criteria by which to evaluate human rights in Finland in reports submitted by the Ministry of Foreign Affairs to Parliament.

Principal subjects of concern and recommendations

(7) The Committee regrets that Finland has maintained its reservations to article 10, paragraphs 2 (b) and 3, article 14, paragraph 7, and article 20, paragraph 1, of the Covenant.

> **The State party should consider withdrawing its reservations.**

(8) The Committee regrets that the State party has only partly followed up on its observations regarding communication No. 779/1997 (*Anni Äärelä and Jouni Näkkäläjärvi v. Finland*).

> **The State party is urged to give full effect to the Committee's observations. It should consider introducing appropriate procedures to give effect to the observations adopted by the Committee under the Optional Protocol.**

(9) While aware of the efforts made by the State party to guarantee equality between men and women, the Committee observes that there are still sex-related differences in rates of pay.

> **The State party should continue its policy of educating society and ensuring that its plans for equality and other forthcoming actions, including the imposition of constraints on employers, are effective, so that women are paid an equal wage for work of equal value thereby satisfying its obligations under articles 3 and 26 of the Covenant.**

(10) The Committee is concerned at the situation of persons held in pre-trial detention at police stations and notes the lack of clarity as regards detainees' right to a lawyer while in custody and the involvement and role of a doctor during that period.

> **The State party is invited to provide the necessary clarifications to assure the Committee that legislation and practice in this area are compatible with articles 7 and 9 of the Covenant.**

(11) While noting that there is a bill on pre-trial detention which calls for suspects to be kept separate from convicts except in exceptional circumstances which must, in any event, be clearly defined and consistent with the Covenant, the Committee feels that some of the practical difficulties cited by the delegation, such as a shortage of staff and space, are no justification for any infringement of article 10, paragraph 2 (a), of the Covenant.

The State party should ensure that the bill on pre-trial detention is compatible with article 10, paragraph 2 (a), of the Covenant, and should take such administrative and budgetary steps as are appropriate to remedy the practical difficulties mentioned by the delegation.

(12) The Committee notes the lack of clarity as to the implications and consequences of the amendment to the Aliens Act of July 2000 providing for accelerated procedures in the case of asylum-seekers with manifestly ill-founded claims and applications by aliens from a "safe" country, as regards both the suspensive effect of an appeal and the legal protection available to asylum-seekers.

The State party should ensure that legislation and practice in this area are compatible with articles 2, 6, 7 and 13 of the Covenant and, in particular, that appeals have a suspensive effect.

(13) The Committee notes with concern the overt attacks made by political authorities (members of the Government and Parliament) on the competence of the judiciary with a view to interfering in certain judicial decisions.

The State party should take action at the highest level to uphold the independence of the judiciary and maintain public trust in the independence of the courts (arts. 2 and 14 of the Covenant).

(14) The Committee regrets that the right to conscientious objection is acknowledged only in peacetime, and that the civilian alternative to military service is punitively long. It reiterates its concern at the fact that the preferential treatment accorded to Jehovah's Witnesses has not been extended to other groups of conscientious objectors.

The State party should fully acknowledge the right to conscientious objection and, accordingly, guarantee it both in wartime and in peacetime; it should also end the discrimination inherent in the duration of alternative civilian service and the categories that can benefit from it (arts. 18 and 26 of the Covenant).

(15) While acknowledging the State party's efforts to enable the Roma minority to preserve its language and culture and to integrate fully into society, the Committee again notes with concern that Roma still face discrimination in housing, education, employment and access to public places.

The State party should step up its efforts to combat social exclusion and discrimination, and allocate the requisite resources to put into effect all plans to do away with obstacles to the Roma's practical exercise of the rights they enjoy under the Covenant (arts. 26 and 27).

(16) The Committee is concerned that negative attitudes and de facto discrimination against immigrants are still to be found in certain strata of the Finnish population.

The State party should step up its efforts to promote tolerance and combat prejudice, particularly through public awareness campaigns.

(17) The Committee regrets that it has not received a clear answer concerning the rights of the Sami as an indigenous people (Constitution, sect. 17, subsect. 3), in the light of article 1 of the Covenant. It reiterates its concern over the failure to settle the question of Sami rights to land ownership and the various public and private uses of land that affect the Sami's traditional means of subsistence - in particular reindeer breeding - thus endangering their traditional culture and way of life, and hence their identity.

> **The State party should, in conjunction with the Sami people, swiftly take decisive action to arrive at an appropriate solution to the land dispute with due regard for the need to preserve the Sami identity in accordance with article 27 of the Covenant. Meanwhile it is requested to refrain from any action that might adversely prejudice settlement of the issue of Sami land rights.**

(18) The State party should disseminate widely the text of its fifth periodic report and the present concluding observations.

(19) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year information on the implementation of the Committee's recommendations in paragraphs 8, 12 and 17 above. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 November 2009, information on the other recommendations made and on the implementation of the Covenant as a whole.

82. Albania

(1) The Committee considered the initial report of Albania (CCPR/C/ALB/2004/1) at its 2228th, 2229th and 2230th meetings (CCPR/C/SR.2228 to 2230), on 19 and 20 October 2004, and adopted the following concluding observations at its 2245th meeting (CCPR/C/SR.2245), on 1 November 2004.

Introduction

(2) The Committee welcomes the initial report submitted by Albania while regretting that it was presented with a delay of 11 years. It expresses its appreciation for the dialogue with the State party delegation. The Committee also welcomes the extensive responses to the list of issues in written form, which facilitated discussion between the delegation and Committee members. In addition, the Committee appreciates the delegation's oral responses given to questions raised and to concerns expressed during the consideration of the report.

Positive aspects

(3) The Committee welcomes the progress accomplished in legislative and institutional reform after the regime change in the early 1990s, notably the restoration of the freedom of conscience and belief, as well as the adoption of a democratic Constitution in 1998 which enhances protection of human rights. It welcomes in particular the ratification by Albania of most of the main United Nations human rights instruments.

(4) The Committee welcomes the fact that the provisions of the Covenant are directly applicable in the domestic legal order and that they have been invoked in the domestic courts.

(5) The Committee welcomes measures taken to improve the protection and promotion of human rights, namely:

(a) The establishment of a "State Council of Minorities";

(b) The establishment of a "National Strategy for the Improvement of the Roma Living Conditions"; and

(c) The establishment of a "Committee for Equal Opportunity".

(6) The Committee welcomes the adoption of new legislation relevant for the protection and implementation of human rights, inter alia, the Criminal Code, the Criminal Procedure Code and the recent Family Code.

(7) The Committee commends the State party for having abolished the death penalty in 2000, and encourages it to ratify the second Optional Protocol to the Covenant.

(8) The Committee welcomes the establishment of the People's Advocate, an independent institution for the defence of human rights and individual freedoms, although it suggests that future reports should provide more adequate information on its activities.

Principal subjects of concern and recommendations

(9) The Committee notes with concern the State party's interpretation of possible derogations from articles 9, paragraph 4, and 10, paragraph 1, of the Covenant during a state of emergency (art. 4).

> **In the light of the Committee's general comment No. 29, the State party should ensure that, in order to protect non-derogable rights, the right to take proceedings before a court, in order that the court may decide without delay on the lawfulness of a detention, as well as the right of all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, must not be reduced by a derogation from Covenant provisions during the state of emergency.**

(10) The Committee is concerned that women continue to face discrimination under customary law and traditional codes (*Kanun*), as well as about reports of high rates of domestic violence, and regrets the lack of detailed information provided on the nature and extent of those problems (arts. 2, 3 and 26).

> **The State party should adopt and implement appropriate policies to combat effectively and prevent the application of discriminatory customary law, to reinforce its policies against domestic violence and to assist its victims. The Committee recommends in particular that the State party establish crisis-centre hotlines and victim support centres equipped with medical, psychological and legal facilities, including shelters for battered spouses and children. In order to raise public awareness, it should disseminate information on those issues through the media.**

(11) The Committee is troubled by the explanation provided in paragraph 196 of the report. It is concerned about the low level of participation of women in public affairs, and that women continue to have a disproportionately low presence in the political and economic life of the State party, particularly in senior positions of public administration (arts. 2, 3 and 26).

The State party should take immediate steps to change public attitude towards the suitability of women for positions in public affairs and consider adopting a policy of positive action. The State party should take appropriate measures to ensure the effective participation of women in political, public and other sectors of the State party.

(12) While welcoming the progress made by the State party in the fight against traditional "blood feuds" and situations where potential victims, including children, do not leave their homes, the Committee is concerned about these phenomena and the lack of detailed information provided about crimes related to customary law and traditional codes (arts. 6 and 7).

The State party should take firm measures to eradicate crimes committed under the guise of customary law and traditional codes. It should investigate such crimes and prosecute and punish all the perpetrators.

(13) The Committee is concerned about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects. It regrets that acts of torture by law enforcement officials are considered as "arbitrary acts" only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art. 7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.

(14) The Committee is concerned about the high rate of infant mortality and of abortion and the apparent lack of family planning and social care in some parts of the State party (arts. 6, 24 and 26).

The State party should take steps to ensure that abortion is not used as a method of family planning and take appropriate measures to reduce infant mortality.

(15) While the Committee acknowledges that Albania's role has decreased as a transit route for trafficking in human beings and welcomes the legal and practical measures taken by the State party to address and combat trafficking in women and children originating from the country, it remains concerned about this phenomenon, about reports on the involvement of police and government officials in acts of trafficking, and about the lack of effective witness and victim protection mechanisms (arts. 8, 24 and 26).

The State party should continue to reinforce international cooperation as well as practical measures to combat trafficking in human beings, prosecute and punish perpetrators and combat trafficking-related corruption. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible.

(16) The Committee is concerned about inhumane conditions of detention, e.g. in police custody, about the number of persons on remand and conditions of detention, the condition of juvenile and female detainees as well as the lack of compensation for unlawful arrest or detention (arts. 9 and 10).

The State party is urged to improve the conditions of detention for those held on remand and for convicted persons. Individuals held in remand detention should be segregated from convicted persons. The State party should also provide the necessary measures for victims of unlawful arrest or detention to claim compensation. The State party is reminded that, under article 9, paragraph 3, it shall not be the general rule that suspected persons are detained while awaiting trial. The State party should develop an effective system of bail.

(17) While noting the progress made in establishing registration centres, the Committee is concerned about the continuing high number of citizens who have migrated internally in recent years but were not registered at their new domicile and for this reason face problems of access to social welfare, education and other services (arts. 12 and 16).

The State party should take effective measures to ensure that all citizens are registered in order to facilitate and ensure their full access to social services.

(18) The Committee has taken note of the efforts undertaken by Albania to strengthen the independence and efficiency of its judiciary. It remains concerned, however, about alleged cases of executive pressure on the judiciary and persistent problems of corruption, lack of access to counsel and legal aid, and undue delay of trials (art. 14).

The State party should guarantee the independence of the judiciary, take measures to eradicate all forms of interference with its independence, ensure prompt, thorough, independent and impartial investigations into all allegations of interference and prosecute and punish perpetrators. It should establish mechanisms to improve the capacity and efficiency of the judiciary, to allow access to justice to all without discrimination and ensure that unconvicted detainees are brought to trial as speedily as possible.

(19) The Committee is concerned about instances of harassment and physical violence against journalists as well as about threats of defamation suits against them, and with the lack of information provided by the State party about those situations (art. 19).

The State party should fully guarantee and protect the right of freedom of opinion and expression of journalists and media representatives and introduce legal mechanisms and practical measures to that effect, and should prosecute and punish perpetrators of interference with those rights.

(20) While noting the policies established by the State party, the Committee is still concerned with the abuses, exploitation, maltreatment and trafficking of children, inter alia child labour, as well as with the lack of information regarding that situation in the State party (arts. 23 and 24).

> **The State party should reinforce measures to combat abuse and exploitation of children, and establish public awareness-raising campaigns regarding children's rights.**

(21) While noting measures undertaken to improve the living conditions of the Roma community, the Committee is concerned that the Roma community continues to suffer prejudice and discrimination, in particular with regard to access to health services, social assistance, education and employment which have a negative impact on the full enjoyment of their rights under the Covenant (arts. 2, 26 and 27).

> **The State party should take all necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant, by urgently implementing and reinforcing effective measures to address discrimination and the serious social situation of the Roma.**

(22) While noting the adoption of institutional measures to improve the rights of minorities, the Committee remains concerned that the practical enjoyment of the Covenant rights by members of ethnic and linguistic minorities is imperilled by a variety of factors and discriminatory practices (arts. 2, 26 and 27).

> **The State party is urged to ensure that all members of ethnic and linguistic minorities, whether or not they are recognized as national minorities, are effectively protected against discrimination and may enjoy their own culture and use their own language, have access to all social rights, participate in public affairs, and are provided with effective remedies against discrimination.**

(23) The Committee draws the attention of the State party to the guidelines of the Committee on the preparation of reports (CCPR/C/66/GUI/Rev.1). The second periodic report should be prepared in accordance with those guidelines, with particular attention paid to the implementation of the rights contained in the Covenant in practice. It should also indicate the measures taken to give effect to these concluding observations.

(24) The State party should disseminate widely the Albanian-language version of its initial report as well as the present concluding observations.

(25) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, the relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 11, 13 and 16 above. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 November 2008, information on the other recommendations made and on the Covenant as a whole.

83. Benin

(1) The Human Rights Committee considered the initial report of Benin (CCPR/C/BEN/2004/1/Add.1) at its 2232nd to 2234th meetings on 21 and 22 October 2004 (CCPR/C/SR.2232, 2233 and 2234). It adopted the following concluding observations at its 2248th meeting, held on 2 November 2004 (see CCPR/C/SR.2248).

Introduction

(2) The Committee welcomes the initial report of Benin. It regrets, however, that the report was submitted more than 10 years late and does not contain sufficient information on the effectiveness of measures taken to implement the Covenant. The Committee commends the sending of a high-level delegation to Geneva as well as the delegation's efforts to answer its questions, both in writing and orally. It welcomes the opening of a dialogue with the State party.

Positive aspects

(3) The Committee notes with satisfaction that individuals are able to bring matters before the Constitutional Court in a simple procedure, and that the Court has a role to play in protecting fundamental rights.

(4) The Committee notes with interest that the trial of judges, registrars and tax collectors charged with misappropriation of court fees has resulted in the imposition of heavy sentences on 63 persons.

(5) The Committee welcomes the promulgation on 25 August 2004 of a new Personal and Family Code that seeks to promote equality of the sexes, particularly in the areas of marriage, divorce and parental authority.

(6) The Committee commends the adoption of the Act of 3 March 2003, which makes female genital mutilation a punishable offence.

Principal subjects of concern and recommendations

(7) The Committee notes with concern that the individual complaint procedure before the Constitutional Court, which is highly important, is largely unknown to the public and that the Court's decisions are not subject to a follow-up procedure (art. 2 of the Covenant).

> **The State party should make people more aware of the opportunities they have to bring matters before the Constitutional Court, ensure that the Court's decisions are enforced, and contemplate the establishment of a body to follow up the Court's decisions.**

(8) The Committee notes with concern that the Beninese Commission on Human Rights is no longer operational and that the State party has not taken the necessary measures, including budgetary measures, to enable the Commission to function effectively. It recalls

that an independent national human rights institution having as its mandate the promotion and protection of rights cannot be replaced by non-governmental organizations or by the National Human Rights Advisory Board within the Ministry of Justice (article 2 of the Covenant).

> **The State party should set up a national human rights institution, in accordance with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights (General Assembly resolution 48/134).**

(9) The Committee is disturbed by reports that domestic violence against women is a common practice (articles 3 and 7 of the Covenant).

> **The State party should adopt effective and concrete measures to combat this phenomenon. It should sensitize society as a whole to this matter, ensure that the perpetrators of such violence are criminally prosecuted and provide assistance and protection to victims.**

(10) The Committee notes that under the new Personal and Family Code, only monogamous marriage is recognized, and that "custom ceases to have the force of law in all matters covered by the present Code". The Committee is concerned, however, at the possible consequences of polygamous marriages that might nevertheless be concluded under customary law, particularly as regards the protection that would be afforded to women involved in such unions (articles 3 and 23 of the Covenant).

> **The State party should clearly prohibit the conclusion of new polygamous marriages, in accordance with the Committee's general comment No. 28 on article 3 of the Covenant. It should provide greater protection to women who, once the new Personal and Family Code has entered into force and out of respect for tradition, may enter into polygamous unions when such unions no longer have any legal standing. The Committee invites the State party to increase its efforts to inform women and make them aware of these issues, including in the remotest parts of the country.**

(11) The Committee remains concerned at the persistence of female genital mutilation, particularly in certain parts of the country, which constitutes a serious violation of articles 3 and 7 of the Covenant.

> **The State party should increase its efforts to combat these practices, especially in communities in which they are extremely common. It should effectively ban such practices by means of more awareness campaigns and the criminal prosecution of perpetrators. The State party should provide more accurate information about the percentage of women and girls affected, as well as their distribution by region and ethnic group, and about any criminal proceedings brought against the perpetrators.**

(12) The Committee is concerned that certain provisions of the draft Criminal Code and Code of Criminal Procedure aimed at combating terrorism might infringe some of the rights set out in the Covenant (articles 2, 7, 9 and 14 of the Covenant).

The State party should seek to ensure that these provisions do not infringe the rights set out in the Covenant, particularly the right to security and freedom of the person, the right to a fair trial and the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

(13) While welcoming the fact that no one sentenced to capital punishment has been executed in Benin in almost 18 years, the Committee notes with concern that capital punishment is not limited to the most serious crimes. It is concerned that some individuals have been on death row for many years, and is disturbed by contradictory reports regarding their conditions of detention (articles 6, 7 and 10 of the Covenant).

The State party should limit the death penalty to the most serious crimes. It should consider abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant. The Committee recommends that the State party commute all existing death sentences into terms of imprisonment, immediately verify the conditions of detention of those on death row and ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are respected in all situations.

(14) The Committee is concerned at the persistence of vigilante justice. It also notes with concern that infanticides motivated by traditional beliefs are being committed in the country (articles 6, 7 and 24 of the Covenant).

The State party should protect persons from acts committed by individuals that infringe their right to life and physical integrity, and should exercise due diligence with a view to preventing and punishing such acts, investigating them and providing reparations for the resulting harm. The State party should also step up its efforts to increase public awareness and provide detailed information on the extent of these phenomena.

(15) The Committee is concerned by allegations that abuse of the system of police custody, torture and cruel, inhuman or degrading treatment are common practice in Benin. It is disturbed by the fact that law enforcement officials who perpetrate such violations appear to enjoy widespread impunity (articles 2, 7 and 9 of the Covenant).

The State party should display greater firmness in preventing abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should automatically bring disciplinary and criminal proceedings against the perpetrators of violations and, in particular, should enforce Constitutional Court decisions in such cases. The Committee recommends that the State party provide it with detailed information on complaints filed in connection with such acts and on the disciplinary and criminal sanctions imposed during the past three years, and that it conduct an independent investigation of the methods in use in the "Petit Palais".

(16) The Committee notes with concern that the most basic rights of persons in police custody are not guaranteed under Beninese law (articles 7, 9 and 14 of the Covenant).

The State party should guarantee the right of persons in police custody to have access to a lawyer in the initial hours of detention, to inform their family members of their detention and to be informed of their rights. Provision should be made for a medical examination at the beginning and at the end of the detention period. Provision should also be made for rapid and effective remedies to allow detainees to challenge the legality of their detention and assert their rights.

(17) The Committee, while taking note of the efforts made by the State party to improve conditions of detention, continues to be concerned by the situation in prisons, particularly in the areas of sanitation and access to health care and food. It is concerned at the extreme overcrowding of prisons and at the fact that juveniles are not always held separately from adults (articles 7, 10 and 24 of the Covenant).

The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly their right to live in hygienic facilities and to have access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. As the State party is unable to meet the needs of detainees, it must reduce the prison population as soon as possible. Lastly, special protection should be provided for juveniles, and all juveniles, including girls, should be systematically separated from adults.

(18) The Committee notes the efforts made by the State party to bring the system of justice closer to the people but remains concerned at reports of serious dysfunctions in the administration of justice, owing chiefly to the lack of human and material resources, the overcrowding of dockets, the slow pace of proceedings, corruption and the interference of the executive in the judiciary. In this connection, the Committee notes with concern the protests by judges against the outright handing over to the Nigerian authorities of persons and vehicles under court administration and other acts related to the so-called *Hamani* case (articles 2, 13 and 14 of the Covenant).

The State party should give greater priority to efforts to address these problems. It should ensure the prompt and effective implementation of the Act of 27 August 2002 on the organization of the judiciary increasing the number of courts and tribunals, strengthen the independence of the justice system by effectively prohibiting any interference by the executive in the judiciary, and ensure that appeals are dealt with in a reasonable amount of time. It should also provide effective reparation for violations established by the Constitutional Court. The State party should also ensure that the expulsion of individuals is based solely on a decision taken in conformity with the law and that such individuals are given an opportunity to contest their expulsion.

(19) The Committee notes that the conciliation tribunals are useful, but fears that the different mandates of the tribunals and of the ordinary courts have been defined vaguely and are not clear to the public, and that the system of judicial confirmation in the courts does not afford all the guarantees provided for in article 14 of the Covenant.

> **The State party should endeavour to clarify the respective mandates of the different tribunals and courts and to ensure that the system of judicial confirmation in the courts meets the requirements of article 14 of the Covenant.**

(20) The Committee is concerned that few people, including minors, are assisted by a lawyer during criminal proceedings, and that such assistance is mandatory only in the Assize Court. It further notes with concern that in the Assize Court a lawyer is appointed only during the final questioning before the actual hearing, a situation that does not guarantee that the right to a defence is respected (article 14 of the Covenant).

> **The State party should ensure that lawyers are trained in adequate numbers, facilitate the access of individuals to legal assistance in criminal proceedings and ensure that lawyers are involved in proceedings from the time of arrest onward.**

(21) The Committee is of the view that the requirement that pre-trial detainees and convicts must wear jackets indicating their place of detention constitutes degrading treatment, and that the requirement that pre-trial detainees must wear such jackets during their trial may infringe the principle of presumption of innocence (articles 7 and 14 of the Covenant).

> **The State party should abolish this measure.**

(22) The Committee notes with concern that under the Act of 30 June 1960 and the Act of 20 August 1997 press offences are punishable by up to five years' imprisonment, which is a disproportionate duration in the light of article 19 of the Covenant.

> **The State party should abolish prison sentences for press offences.**

(23) The Committee notes with concern that public demonstrations have been banned for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant.

> **The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Timely remedies for appealing any ban should be available.**

(24) While noting the efforts made by the State party, the Committee expresses its concern at the alarming practice of placing children with a third party as an act of mutual assistance or family or community solidarity (*vidomégons*), which has become a source of trafficking and

economic exploitation of children within Benin. It notes with concern that Benin has become a country of transit, origin and destination for international trafficking in children (articles 7, 16 and 24 of the Covenant).

> **The State party should increase its efforts to combat trafficking in children and provide the Committee with more detailed information about this phenomenon, in particular an estimate of the number of children involved. It should create mechanisms to monitor the placement of children, increase public awareness and bring criminal proceedings against those engaged in the trafficking in and economic exploitation of children.**

(25) The Committee notes the efforts made by the State party to increase public awareness of human rights but is concerned that these efforts have been limited.

> **As expressly stipulated in article 40 of the Constitution, the State party should integrate human rights education in the primary, secondary, higher and vocational education curricula and, in particular, in the training programmes of the security forces.**

(26) The Committee sets 1 November 2008 as the date for the submission of Benin's second periodic report. It requests that the texts of the State party's initial report and the present concluding observations be published and widely disseminated in Benin, and that the second periodic report be brought to the attention of the non-governmental organizations operating in the country.

(27) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 15, and 17. The Committee requests that the State party include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

84. Morocco

(1) The Human Rights Committee considered the fifth periodic report of Morocco (CCPR/C/MAR/2004/5) at its 2234th, 2235th and 2236th meetings, on 25 and 26 October 2004 (CCPR/C/SR.2234-2236), and adopted the following concluding observations at its 2249th meeting, on 3 November 2004 (CCPR/C/SR.2249).

Introduction

(2) The Committee welcomes the timely submission of Morocco's fifth periodic report (CCPR/C/MAR/2004/5). It takes note with interest of the information provided as well as the clarifications made by the delegation.

Positive aspects

(3) The Committee notes with appreciation that since the submission of its fourth periodic report (CCPR/C/115/Add.1), Morocco has pursued democratic reforms, adopted legislation in this regard (including the new Family Code) and created the office of Ombudsman (Diwan Al Madhalim).

(4) The Committee welcomes the State party's commitment to pursuing the reforms with a view to fully implementing the rights set forth in the Covenant and its intention to accede to the Optional Protocol to the Covenant.

(5) The Committee welcomes the State party's practice, which it has followed consistently since 1994, of commuting death sentences.

(6) The Committee welcomes the decision of 26 September 2000 by Morocco's Supreme Court concerning the primacy of article 11 of the Covenant, prohibiting imprisonment for inability to fulfil a contractual obligation, over domestic law and practice. It notes with interest the content of the letter dated 7 April 2003 referring to the above-mentioned Supreme Court decision, in which the Minister of Justice requests the principal public prosecutors at appeal courts and courts of first instance to apply article 11 of the Covenant and to refer back to the courts the cases of all persons serving such sentences.

(7) The Committee notes with appreciation that there is an advanced network of non-governmental human rights organizations in Morocco.

Principal subjects of concern and recommendations

(8) The Committee remains concerned about the lack of progress on the question of the realization of the right to self-determination for the people of Western Sahara (Covenant, art. 1).

> **The State party should make every effort to permit the population groups concerned to enjoy fully the rights recognized by the Covenant.**

(9) The Committee regrets the lack of specific information on the dealings of the Ombudsman (Diwan Al Madhalim) with the Administration.

> **The State party is requested to supply statistical data on the work of the Ombudsman.**

(10) The Committee is concerned that Moroccan legislation on states of emergency is still vague, does not specify or place limits on the derogations that may be made from the provisions of the Covenant in emergencies and does not guarantee the implementation of article 4 of the Covenant.

> **The State party is invited to review the relevant provisions of its legislation in order to bring them fully into line with article 4 of the Covenant.**

(11) The Committee is concerned that, even though the death penalty has not been applied since 1994 and many of those sentenced to death have had their sentences commuted, the number of offences punishable by the death penalty has risen since the previous periodic report was considered (Covenant, art. 6).

In accordance with article 6 of the Covenant, the State party should reduce to a minimum the number of offences punishable by the death penalty, with a view to abolishing capital punishment. The State party should also commute the sentences of all persons sentenced to death.

(12) While acknowledging the work done by the Consultative Council on Human Rights (CCDH) in the field of data collection and compensation in relation to disappeared persons, the Committee is concerned that those responsible for disappearances have still not been identified, tried and punished (Covenant, arts. 6 and 7).

The State party should conduct the necessary investigations to identify, try and punish those responsible for such crimes (Covenant, arts. 6 and 7).

(13) The Committee is concerned that article 26 of the new law on the residence of aliens permits the immediate expulsion of an alien deemed to be a threat to State security, even if the alien may be subjected to torture or ill-treatment or sentenced to death in the receiving country.

The State party should set up a system that would allow any alien who claims that expulsion would put them at risk of being subjected to torture, ill-treatment or the death penalty to lodge an appeal that would have the effect of suspending the expulsion (Covenant, arts. 6, 7 and 10).

(14) The Committee remains concerned at the numerous allegations of torture and ill-treatment of detainees and at the fact that the officials who are guilty of such acts are generally liable to disciplinary action only, where any sanction exists. In this context, the Committee notes with concern that no independent inquiries are conducted in police stations and other places of detention in order to guarantee that no torture or ill-treatment takes place.

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10).

(15) The Committee considers the period of custody during which a suspect may be held without being brought before a judge - 48 hours (renewable once) for ordinary crimes and 96 hours (renewable twice) for crimes related to terrorism - to be excessive.

The State party should review its legislation on custody with a view to bringing it into line with the provisions of article 9 and all the other provisions of the Covenant.

(16) The Committee is concerned that the accused may have access to the services of a lawyer only from the time at which their custody is extended (that is, after 48 or 96 hours). It recalls that, in its previous decisions, it has held that the accused should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person may incur the death penalty.

The State party should amend its legislation and practice to allow a person under arrest to have access to a lawyer from the beginning of their period in custody (Covenant, arts. 6, 7, 9, 10 and 14).

(17) The Committee remains concerned about the reports of poor conditions in prisons, particularly the shortage of medical care, the lack of rehabilitation programmes and the lack of visiting areas (Covenant, arts. 7 and 10).

> **The State party should improve prison conditions in line with article 10 of the Covenant and should institute alternative penalties.**

(18) The Committee is concerned that some representatives of non-governmental organizations had their passports confiscated and were thus prevented from attending a meeting of non-governmental organizations on the question of Western Sahara at the fifty-ninth session of the Commission on Human Rights in Geneva (Covenant, arts. 12 and 19).

> **The State party should apply article 12 of the Covenant to all its nationals.**

(19) The Committee remains concerned that the independence of the judiciary is not fully guaranteed.

> **The State party should take the necessary steps to guarantee the independence and impartiality of the judiciary (Covenant, art. 14, para. 1).**

(20) The Committee is concerned that the Criminal Code permits any "serious attack using violence" to be classed as a terrorist act. It is also concerned about the numerous reports that the Anti-Terrorism Act adopted on 28 May 2003 is being applied retroactively.

> **In order to rectify this situation of legal uncertainty, the Committee recommends that the State party should amend the legislation in question by clearly defining its scope, and requests it to ensure compliance with the provisions of article 15 and all the other provisions of the Covenant.**

(21) The Committee is concerned about the de facto limitations on the freedom of religion or belief, including the fact that it is impossible, in practice, for a Muslim to change religion. It recalls that article 18 of the Covenant protects all religions and all beliefs, ancient and less ancient, major and minor, and includes the right to adopt the religion or belief of one's choice.

> **The State party should take steps to ensure respect for freedom of religion or belief and to ensure that its legislation and practices are fully in conformity with article 18 of the Covenant.**

(22) The Committee notes that, according to the information supplied by the State party, compulsory military service is a fallback applicable only when not enough professional soldiers can be recruited, while at the same time the State party does not recognize the right to conscientious objection.

> **The State party should fully recognize the right to conscientious objection in times of compulsory military service and should establish an alternative form of service, the terms of which should be non-discriminatory (Covenant, arts. 18 and 26).**

(23) The Committee is concerned about the persistent reports that journalists have been fined or harassed in the exercise of their profession.

> **The State party should take the necessary measures to prevent any harassment of journalists and to ensure that its legislation and practices give full effect to the requirements of article 19 of the Covenant.**

(24) The Committee remains concerned that the process of issuing a receipt for advance notice of meetings is often abused, which amounts to a restriction on the right of assembly, as guaranteed by article 21 of the Covenant.

> **The State party should eliminate the obstacles to the exercise of the right of assembly (Covenant, art. 21).**

(25) The Committee has taken note of the various reports describing restrictions on the right to freedom of association.

> **The State party is requested to bring its practice into line with the provisions of article 22 of the Covenant.**

(26) While welcoming the progress made in the area of education, the Committee remains concerned about the continuing high number of illiterates, particularly among women.

> **The State party should continue with the action undertaken to remedy this situation (Covenant, art. 26).**

(27) The Committee is concerned about the legal ban on marriages between women of the Muslim faith and men from other religions or with other beliefs (Covenant, arts. 3, 23 and 26).

> **The State party should comply with the provisions of articles 3, 23 and 26 of the Covenant by revising the legislation concerned.**

(28) The Committee is also concerned about the high level of domestic violence against women.

> **The State party should take suitable practical measures to combat this phenomenon (Covenant, arts. 3 and 7).**

(29) The Committee notes with concern that abortion is still a criminal offence under Moroccan law unless it is carried out to save the mother's life.

> **The State party should ensure that women are not forced to carry a pregnancy to full term where that would be incompatible with its obligations under the Covenant (arts. 6 and 7) and should relax the legislation relating to abortion.**

(30) The Committee regrets that the new Family Code, while placing limitations on the practice of polygamy, nevertheless does not ban it, despite the fact that it is detrimental to women's dignity (Covenant, arts. 3, 23 and 26).

> **The State party should ban polygamy clearly and definitively (Covenant, arts. 3, 23 and 26).**

(31) The Committee notes that child labour is still widespread in Morocco, even though the new Labour Code prohibits work by children under the age of 15.

> **The State party is requested to take the measures envisaged to implement the provisions of the Labour Code in respect of minors (Covenant, art. 24).**

(32) The Committee notes that a child born of a Moroccan mother and a foreign father (or a father of unknown nationality) is treated differently from the children of a Moroccan father with regard to obtaining Moroccan nationality.

> **The State party should comply with the provisions of article 24 of the Covenant and should ensure equal treatment for the children of a Moroccan mother and a Moroccan or foreign father (Covenant, arts. 24 and 26).**

(33) While welcoming the adoption of the Family Code, the Committee notes with concern that inequalities between women and men persist in the area of inheritance and divorce.

> **The State party should review its legislation and ensure that any gender-based discrimination in the area of inheritance or divorce is eliminated (Covenant, art. 26).**

Dissemination of information about the Covenant (art. 2)

(34) The Committee urges the State party to make the text of these concluding observations available in several languages to the general public as well as to the legislative and administrative authorities. It requests that the next periodic report be widely disseminated among the general public, including civil society and non-governmental organizations working in Morocco.

(35) The Committee sets 1 November 2008 as the date for submission of Morocco's sixth periodic report. That report should pay special attention to the concerns expressed in paragraphs 12, 14, 15 and 16 and to the other problems raised by the Committee in these concluding observations.

85. Poland

(1) The Committee considered the fifth periodic report of Poland (CCPR/C/POL/2004/5) at its 2240th and 2241st meetings (CCPR/C/SR.2240 and 2241), held on 27 and 28 October 2004, and adopted the following concluding observations at its 2251st meeting (CCPR/C/SR.2251) on 4 November 2004.

Introduction

(2) The Committee welcomes the timely submission of Poland's fifth periodic report, which it finds to be extensive and thorough. It also notes with appreciation its open and constructive discussion with the delegation.

Positive aspects

(3) The Committee welcomes the commitment of the State party to respect the rights recognized in the Covenant for all individuals subject to its jurisdiction in situations where its troops operate abroad, particularly in the context of peacekeeping and peace-restoration missions.

(4) In its concluding observations on the State party's fourth report, the Committee expressed concern about excessive delays in criminal and civil trials in Poland. It therefore welcomes the recent passage of legislation making provision for complaints against the violation of the right of a party in judicial proceedings to have his or her case examined without undue delay.

(5) The Committee notes with satisfaction improvements made in the area of women's rights, in particular by the appointment of a Government Plenipotentiary on the Equal Status of Women and Men. It also welcomes the extension of the Plenipotentiary's competence to issues relating not only to discrimination on the basis of sex but also on grounds of race and ethnic origin, religion and beliefs, age and sexual orientation.

(6) The Committee welcomes the State party's commitment to ratify the second Optional Protocol to the Covenant.

Principal subjects of concern and recommendations

(7) While the Committee notes the consideration being given by the State party to improving methods for the implementation of the Committee's Views, it observes that no consistent procedure is yet in place.

> **The State party should ensure that all Views issued by the Committee under the Optional Protocol are complied with, and that appropriate mechanisms are available for this purpose.**

(8) The Committee reiterates its deep concern about restrictive abortion laws in Poland, which may incite women to seek unsafe, illegal abortions, with attendant risks to their life and health. It is also concerned at the unavailability of abortion in practice even when the law permits it, for example in cases of pregnancy resulting from rape, and by the lack of information on the use of the conscientious objection clause by medical practitioners who refuse to carry out legal abortions. The Committee further regrets the lack of information on the extent of illegal abortions and their consequences for the women concerned (art. 6).

> **The State party should liberalize its legislation and practice on abortion. It should provide further information on the use of the conscientious objection clause by doctors, and, so far as possible, on the number of illegal abortions that take place in Poland. These recommendations should be taken into account when the draft Law on Parental Awareness is discussed in Parliament.**

(9) The Committee also reiterates its concern about family planning regulations adopted by the State party. The high cost of contraception, the reduction in the number of refundable oral contraceptives, the lack of free family planning services and the nature of sexual education are also of concern to the Committee (art. 6).

> **The State party should assure the availability of contraceptives and free access to family planning services and methods. The Ministry of Education should ensure that schools include accurate and objective sexual education in their curricula.**

(10) While the Committee appreciates progress made in the area of equality between men and women in the public service, it notes with concern that the number of women in senior positions is still low. The Committee also remains concerned about the disparities in remuneration between men and women (arts. 3 and 26).

> **The State party should ensure equal treatment of men and women at all levels of public service. Appropriate measures should also be taken to ensure that women enjoy equal access to the labour market and equal wages for work of equal value.**

(11) Notwithstanding a variety of programmes intended to deal with domestic violence, the Committee regrets that the number of cases of domestic violence remains high. It is also concerned that measures such as restraining orders and temporary arrests are not widely used, that appropriate protection is not afforded to victims, that shelters do not exist in many places, and that training for law enforcement officers is inadequate (arts. 3 and 7).

> **The State party should ensure that law enforcement officers are properly trained and that appropriate measures to address domestic violence cases, including restraining orders, are available as required. The State party should also increase the number of shelters and other means of protection for victims throughout the country.**

(12) While taking note of measures to address overcrowding in prisons, the Committee remains concerned that many inmates still occupy cells which do not meet the requirements established by the Standard Minimum Rules for the Treatment of Prisoners. It is also concerned that judges do not make full use of alternative types of punishment available under the law (art. 10).

> **The State party should take further measures to address overcrowding in prisons and to ensure compliance with the requirements of article 10. It should also encourage the judiciary to impose alternative forms of punishment more frequently.**

13. While welcoming recent changes in legislation designed to reduce pre-trial detention, the Committee is concerned that the number of persons in pre-trial detention remains high (art. 9).

> **The State party should take further steps to reduce the number of persons in pre-trial detention.**

(14) The Committee notes the State party's intention to undertake a comprehensive reform of the Polish legal aid system, but regrets that persons detained cannot at this time enjoy their right to legal aid from the beginning of their detention (art. 14).

> **The State party should take measures to ensure that all persons, including those in detention, have access to legal aid at all times.**

(15) The Committee notes that the duration of alternative military service is 18 months, whereas for military service it is only 12 months (arts. 18 and 26).

> **The State party should ensure that the length of alternative service to military service does not have a punitive character.**

(16) While the Committee notes that the Labour Code has now been amended to include a non-discrimination clause relating to employment, it regrets that a general non-discrimination provision covering all appropriate grounds has not yet been introduced into national legislation (arts. 26 and 27).

> **The State party should broaden the scope of its non-discrimination law to extend to areas other than employment.**

(17) While noting measures taken to improve the conditions of the Roma community, the Committee is concerned that the Roma continue to suffer prejudice and discrimination, in particular with regard to access to health services, social assistance, education and employment. It is also concerned that acts of violence against members of the Roma community are not appropriately investigated and sanctioned (arts. 2, 26 and 27).

> **The State party should intensify its efforts to prevent discrimination against the Roma community and ensure their full enjoyment of their Covenant rights. The police and judiciary should be properly trained to investigate and sanction all acts of discrimination and violence against the Roma.**

(18) The Committee is concerned that the right of sexual minorities not to be discriminated against is not fully recognized, and that discriminatory acts and attitudes against persons on the ground of sexual orientation are not adequately investigated and punished (art. 26).

> **The State party should provide appropriate training to law enforcement and judicial officials in order to sensitize them to the rights of sexual minorities. Discrimination on the ground of sexual orientation should be specifically prohibited in Polish law.**

(19) The Committee notes with concern that incidents of desecration of Catholic and Jewish cemeteries, and acts of anti-Semitism, have not always been properly investigated and the perpetrators punished (arts. 18, 20 and 27).

> **The State party should intensify efforts to combat and punish all such incidents. Law enforcement bodies and the judiciary should be properly trained and instructed on how to address such complaints.**

(20) While taking note of the draft Law on National and Ethnic Minorities and on Regional Languages, the Committee is concerned that current legislation does not allow linguistic minorities to use their own language when dealing with administrative authorities in areas where their numbers warrant (arts. 26 and 27).

> **The State party should ensure that new legislation on minorities is in full compliance with article 27 of the Covenant, in particular regarding the rights of minorities to be recognized as such and to use their own languages.**

(21) The State party should widely disseminate the text of its fifth periodic report and the present concluding observations.

(22) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, additional information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 8, 9 and 17. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 November 2008, information on its other recommendations and on the Covenant as a whole.

86. Kenya

(1) The Human Rights Committee considered the second periodic report of Kenya (CCPR/C/KEN/2004/2) at its 2255th and 2256th meetings (CCPR/C/SR.2255 and 2256), on 14 and 15 March 2005. It adopted the following concluding observations at its 2271st meeting (see CCPR/C/SR.2271) held on 24 March 2005.

Introduction

(2) The Committee welcomes the second periodic report of Kenya. It regrets, however, that the report was submitted more than 18 years late and does not contain sufficient information on the effectiveness of measures taken to implement the Covenant, nor on practical measures designed to implement Covenant guarantees. The Committee commends the delegation's efforts to provide answers to its questions, both in writing and orally, as well as the commitment that the next periodic report of the State party will be submitted on time. It welcomes the reopening of a long-interrupted dialogue with the State party.

Positive aspects

(3) The Committee welcomes the fact that the State party's new draft constitution includes a proposed Bill of Rights that is inspired by international human rights standards and seeks to remedy present deficiencies in the protection of fundamental rights, including gender disparities. It hopes that a Bill of Rights in full conformity with the Covenant will be adopted soon.

(4) The Committee welcomes the establishment of the independent Kenya Human Rights Commission in 2003 and expresses the hope that the Commission will be endowed with sufficient resources to enable it effectively to discharge all of its mandated activities and to operate in accordance with the Paris Principles.

(5) The Committee appreciates the State party's circumspection in legislating on the pending Suppression of Terrorism Bill, a draft of which was made available for comments to civil society stakeholders, and its intention to balance security concerns with human rights concerns in the adoption of this bill. In this context, the State party is invited to take into account pertinent considerations set out in the Committee's general comment No. 29 on derogations during states of emergency and general comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant.

(6) The Committee welcomes the information that Kenya has now prohibited all forms of corporal punishment of children, and notes that implementation of the prohibition should be accompanied by public information and education campaigns.

(7) The Committee welcomes the Criminal Law (Amendment) Act 2003, which prohibits courts from accepting confessions unless they are made in court.

Principal subjects of concern and recommendations

(8) The Committee notes that the Covenant has not been incorporated into domestic law and that the provisions of international human rights instruments, in particular the Covenant, are not in practice invoked in courts of law. It stresses that implementation of Covenant guarantees and the possibility of invoking the Covenant before domestic courts do not depend on the State party being a party to the first Optional Protocol to the Covenant.

> **The Committee invites the State party to take appropriate measures to allow Covenant rights to be invoked in the domestic courts.**

(9) The Committee notes with concern that because of, inter alia, widespread corruption, the access of citizens to domestic courts and to judicial remedies is limited in practice. The frequent failure to enforce court orders and judgements is an additional cause of concern (article 2 of the Covenant).

> **The State party should ensure that all individuals subject to its jurisdiction have equal access to judicial and other remedies.**

(10) The Committee notes with concern that systemic discrimination against women persists in Kenya, both in law and practice. This includes a low level of representation of women in Parliament and in public office, despite recent progress in this area; inequalities in claiming property rights; the discriminatory practice of "wife inheritance"; and inequalities in the law of succession or inheritance. In addition, the continued application of some customary laws, including the permissibility of polygamous marriages, undermines the scope of the non-discrimination provisions in the Constitution and other legislative texts (articles 2, 3, 23, 24 and 26 of the Covenant).

> **The State party should take urgent measures to address the absence of constitutional protection against discrimination in relation to women and gender disparities, and intensify its efforts to ensure their protection, whether through the**

National Commission on Gender and Development or otherwise. The draft bill that would eliminate inequality of spouses with regard to marriage, divorce, devolution of property and other rights should be adopted without delay. The State party should prohibit polygamous marriages.

(11) The Committee is disturbed by the fact, acknowledged by the delegation, that domestic violence against women remains a recurrent practice in Kenya and that women do not benefit from adequate legal protection against acts of sexual violence - another widespread phenomenon (articles 7 and 10 of the Covenant).

The State party should adopt effective and concrete measures to combat these phenomena. It should sensitize society as a whole to this matter, ensure that the perpetrators of such violence are prosecuted and provide assistance and protection to victims. The draft Family Protection (Domestic Violence) Bill should be enacted as soon as possible.

12. The Committee remains concerned that, despite the recent legal ban on female genital mutilation (FGM) of children (section 14 of the Children Act (2001)), the practice of FGM persists, particularly in rural areas of the country, and that there is no legal prohibition of FGM for adults (articles 3 and 7 of the Covenant).

The State party should increase its efforts to combat the practice of FGM, including through prohibition of FGM for adults, and, in particular, step up the awareness campaign launched by the Ministry of Gender, Sports, Culture and Social Services.

(13) While welcoming the fact that no one sentenced to capital punishment has been executed in Kenya since 1988, the Committee notes with concern that there is a large but unspecified number of individuals under sentence of death, and that the death penalty applies to crimes not having fatal or similarly grave consequences, such as robbery with violence or attempted robbery with violence, which do not qualify as "most serious crimes" within the meaning of article 6, paragraph 2, of the Covenant.

The State party should consider abolishing the death penalty de jure and acceding to the Second Optional Protocol to the Covenant. The State party should remove the death penalty from the books for crimes that do not meet the requirements of article 6, paragraph 2. It should ensure that the death sentences of all those on death row whose final appeals have been exhausted are commuted.

(14) The Committee expresses concern about the high maternal mortality rate prevalent in the country, caused, inter alia, by a high number of unsafe or illegal abortions (article 6 of the Covenant).

The State party should adopt measures to improve access to family planning services for all women. It should review its abortion laws, with a view to bringing them into conformity with the Covenant.

(15) While it notes with appreciation the recent awareness campaigns and the activities of the National AIDS Control Council, the Committee remains concerned about the extremely high rate of deaths resulting from AIDS, and the unequal access to appropriate treatment for those infected with HIV (article 6 of the Covenant).

> **The State party should take measures to ensure that all those infected with HIV have equal access to treatment.**

(16) The Committee is concerned about reports of extrajudicial killings perpetrated by police units ("flying squads") or other law enforcement personnel. While noting the delegation's intention to address this issue, it deplores the fact that few instances of unlawful killings by law enforcement officials have been investigated or prosecuted, and that de facto impunity for such acts continues to be widespread (articles 2, 6 and 7 of the Covenant).

> **The State party should promptly investigate reports of unlawful killings by police or law enforcement officers and prosecute those found responsible. The State party should actively pursue the idea of instituting an independent civilian body to investigate complaints filed against the police.**

(17) The Committee notes with concern the differential between the time in which those accused of having committed an offence must be brought before a judge (24 hours) and the time limit that applies to a person accused of a capital offence (14 days); the latter is incompatible with article 9 (3) of the Covenant. It is further concerned that most suspects do not have access to a lawyer during the initial stages of detention.

> **The State party should ensure that those accused of the capital offence of murder fully benefit from the guarantees of article 9 (3) of the Covenant. It should further guarantee the right of persons in police custody to have access to a lawyer during the initial hours of detention.**

(18) The Committee is concerned at reports that police custody is frequently resorted to abusively, and that torture is frequently practised in such custody. It is especially concerned at the information about the extremely high number of deaths in custody provided by the delegation. While noting the delegation's explanations in this respect, it remains disturbed by reports that law enforcement officials responsible for acts of torture are seldom prosecuted, and that forms for the filing of complaints (so-called "P3 forms") can only be obtained from the police themselves. While welcoming the power given to the Kenya Human Rights Commission of unrestricted access to places of detention, it is concerned that such access is sometimes wrongfully denied by the police (articles 2, 6, 7 and 9 of the Covenant).

> **The State party should take more effective measures to prevent abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should ensure that allegations of torture and similar ill-treatment, as well as of deaths in custody, are promptly and thoroughly investigated by an independent body so that perpetrators are brought to justice, and that complaint forms are available from a public body other than the police. In particular, High Court judgements in such cases should be enforced**

> **without delay. The Committee recommends that the State party provide it with detailed information on complaints filed in connection with such acts and on the disciplinary and criminal sanctions imposed during the past five years. The State party should enforce the law requiring that access to places of detention be given to the Kenya Human Rights Commission.**

(19) While taking note of efforts made by the State party to improve conditions of detention and to ease prison overcrowding through passage of the Community Service Orders Act, the Committee continues to be concerned at the situation in prisons, particularly in the areas of sanitation and access to health care and adequate food. It is concerned at the extreme overcrowding of prisons, which was acknowledged by the delegation and which, combined with sanitation and health-care deficiencies, may result in life-threatening conditions of detention (articles 7 and 10 of the Covenant).

> **The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, in particular their right to live in hygienic facilities and to have access to health care and adequate food. The State party's next periodic report should include detailed information on measures taken to address the problem of prison overcrowding.**

(20) The Committee remains concerned about reports of serious dysfunctions in the administration of justice, owing primarily to the lack of human and material resources as well as the slow pace of proceedings. While the Committee appreciates recent Government measures such as the adoption of the Anti-Corruption and Economic Crimes Bill and its implementation, and the establishment of the Kenya Anti-Corruption Commission, which led to the resignation or the suspension of many High Court and Court of Appeal judges, it notes that allegations of judicial corruption persist, a situation that seriously undermines the independence and impartiality of the judiciary (articles 2 and 14 of the Covenant).

> **The State party should give priority to its efforts to combat corruption in the judiciary and to address the need to provide increased resources to the administration of justice.**

(21) The Committee is concerned that only individuals facing a capital murder charge currently benefit from a legal assistance scheme, and that those charged with other capital or non-capital offences, however serious, do not benefit from legal aid (article 14, paragraph 3 (d), of the Covenant).

> **The State party should facilitate the access of individuals to legal assistance in all criminal proceedings where the interests of justice so require. The envisaged expansion of the legal aid scheme should be pursued actively.**

(22) While noting the delegation's explanations on the issue, the Committee remains concerned about reports of the forcible eviction of thousands of inhabitants from so called informal settlements, both in Nairobi and other parts of the country, without prior consultation with the populations concerned and/or without adequate prior notification. This practice arbitrarily interferes with the Covenant rights of the victims of such evictions, especially their rights under article 17 of the Covenant.

The State party should develop transparent policies and procedures for dealing with evictions and ensure that evictions from settlements do not occur unless those affected have been consulted and appropriate resettlement arrangements have been made.

(23) The Committee notes with concern that large public political meetings are subject to a prior notification requirement of at least three days under section 5 of the Public Order Act, and that public demonstrations have not been authorized for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant. Additional matters of concern are that no remedy appears to be available for the denial of an authorization, and that unauthorized meetings are at times broken up with violence (article 21, paragraph 2, of the Covenant).

The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society.

(24) The Committee is concerned about the extremely low age of criminal responsibility, namely 8 years (paragraph 190 of the report), which cannot be considered compatible with article 24 of the Covenant.

The State party is urged to raise the minimum age of criminal responsibility.

(25) The Committee is concerned about allegations of trafficking of children and instances of child prostitution, as well as the State party's failure to prosecute and punish trafficking offences that have come to the authorities' knowledge and to afford adequate protection to victims (articles 8 and 24 of the Covenant).

The State party should adopt specific anti-trafficking legislation, including for the protection of the human rights of victims, and actively investigate and prosecute trafficking offences. It should implement policy across Government for the eradication of trafficking and for the provision of support to victims of trafficking.

(26) While noting the efforts undertaken by the State party to address the issue of child labour, the Committee expresses its concern at the prevalence of the phenomenon in Kenya, especially in the commercial agricultural sector (articles 8 and 24 of the Covenant).

The State party should intensify its efforts to combat and reduce the incidence of child labour.

(27) The Committee notes with concern that section 162 of the Penal Code continues to criminalize homosexuality (articles 17 and 26 of the Covenant).

The State party is urged to repeal section 162 of the Penal Code.

(28) The Committee sets 1 April 2008 as the date for the submission of Kenya's third periodic report. It requests that the State party's second periodic report and the present concluding observations be published and widely disseminated in Kenya, and that the third periodic report be circulated for the attention of the non-governmental organizations operating in the country.

(29) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 10, 16, 18 and 20 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

87. **Iceland**

(1) The Human Rights Committee considered the fourth periodic report of Iceland (CCPR/C/ISL/2004/4) at its 2258th and 2259th meetings (CCPR/C/SR.2258 and 2259), held on 16 March 2005, and adopted the following concluding observations at its 2272nd meeting (see CCPR/C/SR.2272), held on 28 March 2005.

Introduction

(2) The Committee welcomes the high quality of the report, which was submitted by the State party in a timely manner, and the written information submitted by the delegation in reply to the Committee's list of issues. The information was thorough and informative. The Committee expresses its appreciation for the dialogue it had with the State party's delegation.

Positive aspects

(3) The Committee commends the State party for its generally positive record in the implementation of Covenant provisions. It notes with appreciation the extensive legislative and other measures that have been taken for the promotion and protection of rights guaranteed under the Covenant since the examination of the third periodic report. Of particular interest in this respect are the adoption of the Act on the Protection of Children, No. 80/2000; the Law governing Parental Leave, Act No. 94/2000; the Act on Equal Status and Equal Rights of Women and Men, No. 96/2000; and the Children's Act, No. 76/2003.

(4) The Committee welcomes the adoption of Act No. 62/1998 amending the Icelandic Citizenship Act, which abolished important elements of the previous legislation with respect to discrimination against children born out of wedlock.

(5) While the State party is aware that there are still sex-related differences in rates of pay, the average difference being 15 per cent in 2004, the Committee notes with satisfaction that the burden of proof rests with the employer, who must demonstrate that any difference in wages pai to men and women for work of equal value is based on factors other than the gender of the employees.

(6) The Committee welcomes the establishment of the Equal Rights Office.

(7) The Committee is pleased to observe the State party's concern to integrate human rights into actions to combat terrorism, in part by maintaining an outright ban on extradition, refoulement or expulsion to a country where the individual concerned might be exposed to the death penalty and violations of articles 7 and 9 of the Covenant.

Principal subjects of concern and recommendations

(8) The Committee regrets that Iceland maintains its reservations to several provisions of the Covenant.

The State party is invited to withdraw its reservations.

(9) The Committee regrets that, despite the recommendation it made in 1998 and the incorporation into domestic law of articles 3, 24 and 26, the Covenant itself has not been incorporated into Icelandic law, whereas the European Convention on Human Rights (ECHR) has. The Committee notes in this regard that several Covenant provisions, including articles 4, 12, 22, 25 and 27, go beyond the scope of the provisions of the ECHR.

The Committee encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law.

(10) The Committee expresses concern that Act 99/2002 amending the General Penal Code sets out a vague and broad definition of terrorism (art. 100 (a)), which might encompass and consequently jeopardize legitimate activity in a democratic society, in particular participation in public demonstrations (articles 2 and 21 of the Covenant).

The State party should formulate and adopt a more precise definition of terrorist offences.

(11) The Committee notes with concern the high number of reported rapes in the State party, in comparison with the number of prosecutions undertaken on this ground. The Committee recalls that doubt is an obstacle to conviction, but not to prosecution, and that it is in the province of the courts to determine whether a charge is proven or not (articles 3, 7 and 26 of the Covenant).

The Committee recommends that the State party ensure that rape does not go unpunished.

(12) While the Committee welcomes the measures taken to provide support to victims of domestic violence, it expresses its concern about the efficacy of restraining orders (articles 3, 7 and 26 of the Covenant).

The State party is invited to take all necessary steps to ensure appropriate protection of women from domestic violence.

(13) The Committee takes note of the enactment of Act No. 40/2003 amending the General Criminal Code and introducing a new definition of "trafficking in persons", but is concerned at the growing phenomenon of trafficking in the State party (article 8 of the Covenant).

The State party should implement without delay a national action plan on this issue.

(14) The Committee has noted with concern the delegation's information that, in the case of minor offences (misdemeanours), the convicted person cannot appeal against the conviction and sentence to a higher tribunal, except in exceptional circumstances where the Supreme Court may so authorize (article 14, paragraph 5, of the Covenant).

> **The State party should recognize the right of everyone convicted of a criminal offence to have his/her sentence and conviction reviewed by a higher tribunal.**

(15) The State party should disseminate widely the text of its fourth periodic report and the present concluding observations.

(16) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year information on the implementation of the Committee's recommendation in paragraph 11 above. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 April 2010, information on the other recommendations made and on the implementation of the Covenant as a whole.

88. Mauritius

(1) The Human Rights Committee considered the fourth periodic report of Mauritius (CCPR/C/MUS/2004/4) at its 2261st and 2262nd meetings (CCPR/C/SR.2261 and 2262), held on 17 and 18 March 2005, and adopted the following concluding observations at its 2278th meeting (CCPR/C/SR.2278), held on 31 March 2005.

Introduction

(2) The Committee welcomes the renewal of the dialogue with the State party nine years after the consideration of the previous report. It notes that the report submitted by the State party contains useful information on domestic legislation and on developments in certain legal and institutional areas since the consideration of the third periodic report. It welcomes the dialogue with the high-level delegation and notes with appreciation the oral and written replies to the Committee's list of issues.

Positive aspects

(3) The Committee welcomes certain initiatives taken in recent years by the State party in the area of human rights, including the enactment of the Protection of Human Rights Act 1998, the Sex Discrimination Act 2002 establishing a Sex Discrimination Division under the National Human Rights Commission, the Criminal Code (Amendment) Act 2003, which introduced a new section 78 on "Torture by public official", and the Ombudsperson for Children Act 2003 enacted in November 2003.

(4) The Committee also notes with satisfaction the measures taken by the State party to promote the use of written Creole in schools.

Principal subjects of concern and recommendations

(5) The Committee takes note of the continuing dispute between the State party and the United Kingdom Government with respect to the legal status of the Chagos Archipelago, whose population was removed to the main island of Mauritius and other places after 1965 (Covenant, art. 1).

> **The State party should make every effort to enable the population concerned who were removed from these territories to fully enjoy their rights under the Covenant.**

(6) The Committee reiterates its concern over the failure to integrate all the rights guaranteed under the Covenant into national legislation, more particularly the maintenance of legislative and constitutional provisions at variance with the Covenant. It stresses once again that the Mauritian legal system does not provide effective remedies in all cases of violations of the rights guaranteed by the Covenant (Covenant, art. 2). The Committee notes yet again that the maintenance of article 16 of the Constitution, by virtue of which the prohibition of discrimination does not apply to personal-status laws and to foreigners, might well result in the violation of articles 3 and 26 of the Covenant.

> **The State party should give full effect to the provisions of the Covenant in its domestic legislation prohibiting all forms of discrimination.**

(7) While the Committee welcomes the establishment in April 2001 of the National Human Rights Commission, it notes the Commission's shortcomings in terms of guarantees of independence in appointing and dismissing its members. Furthermore, the Commission does not have its own budget and its investigative powers are restricted. Moreover, it often requests the police to investigate the complaints submitted to it (Covenant, art. 2).

> **The State party should ensure that the Human Rights Protection Act 1998 establishing this Commission and its practice are in line with the Paris Principles.**

(8) While the Committee welcomes the progress achieved with respect to gender parity in the public sector, it notes with concern that few women are employed in the private sector and in executive positions. It also remains concerned over the wage gap between men and women. Finally, the participation of women in political life remains inadequate (Covenant, arts. 3 and 26).

> **The State party should pursue and strengthen its measures to ensure that women enjoy equal access to the private sector labour market, including executive positions, and to equal pay for work of equal value. Women's participation in political life should also be enhanced through effectively applied positive measures.**

(9) The Committee notes with concern that section 235 of the Penal Code penalizes abortion even when the mother's life is in danger, and thus may encourage women to resort to unreliable and illegal abortion, with inherent risks for their life and health (Covenant, art. 6).

> **The State party should review its legislation to ensure that women are not forced to carry pregnancies to term in violation of the rights guaranteed by the Covenant.**

(10) While taking note of the new Protection from Domestic Violence Act 1997 and its amendment in 2004, the establishment of support structures for victims and awareness-raising programmes, including training for police officers and prosecutors to ensure that cases of violence are not considered as private matters, the Committee regrets that the number of domestic violence cases reported by concurring non-governmental sources remains high (Covenant, arts. 3 and 7).

> **The State party should strengthen its measures aimed at preventing and reducing cases of domestic violence against women and children and address obstacles such as economic dependence on their partners that prevent women from reporting such violence.**

(11) The Committee notes the persistence of child labour and child prostitution (Covenant, arts. 7, 8 and 24).

> **The State party should pursue and strengthen its measures aimed at eradicating child prostitution and child labour.**

(12) While the Committee understands the security obligations required in the fight against terrorism, it believes that the impact of the Prevention of Terrorism Act 2002 may be all the more serious as the notion of terrorism is vague and lends itself to broad interpretations. While noting that no arrests have been made under the counter-terrorism Act and despite certain guarantees undertaken by the State party such as video recordings of interrogations and of suspects in detention, the Committee expresses concern that the provisions of that Act denying bail and access to counsel for 36 hours are at variance with the provisions of the Covenant (Covenant, arts. 7 and 9).

> **The State party should ensure that its legislation adopted in the context of the fight against terrorism is fully consistent with all the provisions of the Covenant, including article 4, taking into account general comment No. 29.**

(13) The Committee notes with concern concurring reports from non-governmental organizations on numerous instances of ill-treatment and deaths of persons in custody and in prisons attributable to police officers. The Committee is concerned at the fact that few complaints are actually investigated in order to identify and punish the officers responsible. It notes with concern the limitations of the investigations carried out by the Complaints Investigation Bureau, as well as the shortcomings of the National Human Rights Commission (Covenant, arts. 6, 7 and 10). In that regard, it is concerned at the absence of an independent appeals body for complaints against the police authorities.

> **The State party should ensure that investigations into all violations under articles 6, 7 and 10 of the Covenant are carried out. It should, depending on the findings of the investigations, prosecute the perpetrators of such violations and pay compensation to the victims. The State party should also ensure that the victims have access to genuinely independent bodies for investigating those complaints. The State party is invited to provide in its next report detailed statistics on the number of complaints against State officials, the nature of the violations, the State departments involved, the number and nature of the investigations and the action taken, as well as the compensation granted to the victims.**

(14) The Committee reiterates its concern that the powers to detain provided for by article 5, paragraphs 1 (k) and 4, of the Constitution are incompatible with article 9, paragraphs 3 and 4, of the Covenant.

The State party should review these constitutional provisions that are incompatible with the Covenant.

(15) The Committee notes with concern that bail is not allowed under the Dangerous Drugs Act 2000 for persons arrested or held in custody for the sale of drugs, especially where they have already been convicted of any drug offence. The Act also permits suspects to be remanded in custody for 36 hours without access to counsel (Covenant, art. 9).

The State party should review the Dangerous Drugs Act 2000 in order to enable judges to make a case-by-case assessment on the basis of the offence committed and to give full effect to the provisions of article 9, paragraph 2, of the Covenant.

(16) The Committee notes with concern the alarming finding of the report "Developments in the conduct of imprisonment" drawn up in the wake of the Beau Bassin prison incidents of 26 September 2003, which shows, in particular, the considerable percentage of the inmate population in pre-trial detention (36 per cent) and the excessive length of such detention for serious offences (Covenant, art. 9).

The State party is urged to draw all appropriate conclusions from the above mentioned report and ensure that its pre-trial detention practice is compatible with article 9 of the Covenant.

(17) While taking note of the delegation's explanations, the Committee reiterates its concern with respect to the incompatibility of Mauritian legislation with article 11 of the Covenant.

The State party is once again invited to bring its legislation in line with the provisions of article 11 of the Covenant.

(18) The Committee notes that expulsion procedures contain no provisions guaranteeing respect for the rights protected by the Covenant (Covenant, art. 13).

The State party should integrate into its legislation all the safeguards which should accompany an expulsion procedure.

(19) The Committee notes that the Industrial Relations Act, which is still in force, places restrictions on trade union rights that are at variance with article 22 of the Covenant.

The State party should ensure that the ongoing review of that legislation leads to full respect for the provisions of article 22 of the Covenant.

(20) The State party should widely disseminate the text of its fourth periodic report and the present concluding observations.

(21) Pursuant to article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within a year, additional information updating the Committee on the situation and on the implementation of its recommendations in paragraphs 10, 13 and 16. The Committee

requests the State party to provide, in its next report, to be submitted to it by 1 April 2010, information on the other recommendations made and on the implementation of the Covenant as a whole.

89. **Uzbekistan**

(1) The Human Rights Committee considered the second periodic report of Uzbekistan (CCPR/C/UZB/2004/2) at its 2265th, 2266th and 2267th meetings (CCPR/C/SR.2265-2267), on 21 and 22 March 2005, and adopted the following concluding observations at its 2278th and 2279th meetings (see CCPR/C/SR.2278 and 2279), on 31 March 2005.

Introduction

(2) The Committee welcomes the timely submission of Uzbekistan's second periodic report which was prepared in accordance with the Committee's guidelines, and notes the written replies to the list of issues and the replies to the Committee's additional questions. It also notes the follow-up information provided by the State party on the concluding observations on its initial report.

Positive aspects

(3) The Committee notes with appreciation the positive effect of legal reform in the area of criminal law on the overall number of remand prisoners and convicted persons serving their sentences.

(4) The Committee notes with interest that, following the 2004 revision of the Act on the Parliamentary Ombudsman (1997), the Ombudsman's institution is now operational and receives numerous complaints each year. The Committee encourages promotion of the work of this institution.

(5) The Committee welcomes the State party's invitation to national non-governmental organizations "to participate actively" in current discussions on Criminal Code reform.

Principal subjects of concern and recommendations

(6) The Committee recalls that in several cases, the State party has executed prisoners under sentence of death, although their cases were pending before the Committee under the Optional Protocol to the Covenant and requests for interim measures of protection had been addressed to the State party. The Committee recalls that in acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction. Disregard of the Committee's requests for interim measures constitutes a grave breach of the State party's obligations under the Covenant and the Optional Protocol.

> **The State party should adhere to its obligations under the Covenant and the Optional Protocol, in accordance with the principle of *pacta sunt servanda*, and take the necessary measures to avoid similar violations in future.**

(7) The Committee is concerned about the lack of information on criminal cases and convictions, including the number of prisoners sentenced to death, grounds for conviction and the number of executions (Covenant, art. 6; see also paragraph 6 of the Committee's concluding observations on the State party's initial report).

> **The State party should supply data on the operation of its criminal justice system and provide information on the number of prisoners sentenced to death and executed since the beginning of the period covered by the second periodic report. The State party should in future publish such information periodically and make it accessible to the public.**

(8) The Committee remains concerned about information before it that when prisoners under sentence of death are executed, the authorities systematically fail to inform the relatives of the execution, defer the issuance of a death certificate and do not reveal the place of burial of the executed persons. These practices amount to a violation of article 7 of the Covenant with respect to the relatives of the executed persons (Covenant, art. 7).

> **The State party is urged to change its practice in this regard, in order to comply fully with the Covenant's provisions.**

(9) While it has noted with interest that in 2003 the Supreme Court of Uzbekistan handed down a judgement pursuant to which the provisions of national law relating to torture must be read in the light of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee remains concerned at the apparently narrow definition of torture in the State party's Criminal Code (Covenant, art. 7).

> **The State party should amend the relevant provisions of its Criminal Code in order to avoid misinterpretation not only by the judiciary, but also by its law enforcement authorities.**

(10) The Committee is concerned about the continuing high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods incompatible with article 7 of the Covenant. It also notes that, while on 24 September 2004 the Plenum of the Supreme Court held that no information obtained from a detained individual in violation of the criminal procedure requirements (including in the absence of a lawyer) may be used as evidence in court, this requirement is not reflected in a law (Covenant, arts. 7 and 14).

> **The State party should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.**

(11) The Committee is concerned about allegations relating to widespread use of torture and ill-treatment of detainees and the low number of officials who have been charged, prosecuted and convicted for such acts. It is a matter of further concern that no independent inquiries are conducted in police stations and other places of detention to guarantee that no torture or ill-treatment takes place, apart from a small number of inquiries with external participation quoted by the delegation (Covenant, arts. 7 and 10).

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. Those responsible should be prosecuted and punished in accordance with the seriousness of the crime committed. All places of detention should be subject to regular independent inspection. Provision should also be made for the medical examination of detainees, in particular persons held in pre-trial detention. The use of audio and video equipment in police stations and detention facilities should be considered.

(12) The Committee is concerned that there is no law governing expulsion of foreigners from Uzbekistan and that expulsion and extradition are regulated by bilateral agreements, which may allow for the expulsion of aliens even if they may be subjected to torture or ill-treatment in the receiving country (Covenant, arts. 7 and 13).

The State party should adopt the necessary norms to prohibit the extradition, expulsion, deportation or forcible return of aliens to a country where they would be at risk of torture or ill-treatment, and should establish a mechanism allowing aliens who claim that forced removal would put them at risk of torture or ill-treatment to file appeals with suspensive effect.

(13) The Committee is concerned that the provisions of the Constitution on states of emergency and related laws do not explicitly specify, or place limits, on the derogations from the rights protected by the Covenant that may be made in emergencies, and do not guarantee the full implementation of article 4 of the Covenant (Covenant, art. 4).

The State party should review the relevant provisions of its domestic law and bring them into line with article 4 of the Covenant.

(14) The Committee considers that the length of custody for which a suspect may be held without being brought before a judge or an officer authorized to exercise judicial power - 72 hours - is excessive (Covenant, art. 9).

The State party should ensure that a judge reviews all detentions to determine if they are legal and that all cases of detention are brought before a judge for that purpose, in conformity with the provisions of article 9 of the Covenant.

(15) The Committee notes that while under domestic law individuals have access to a lawyer at the time of arrest, this right is often not respected in practice. Those accused of criminal acts should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person is liable to the death penalty (Covenant, arts. 6, 7, 9, 10 and 14).

The State party should amend its legislation and practice to allow a person who has been placed under arrest to have access to a lawyer from the time of arrest.

(16) The Committee remains concerned that the judiciary is not fully independent and that the appointment of judges has to be reviewed by the executive branch every five years (Covenant, art. 14, para. 1).

The State party should guarantee the full independence and impartiality of the judiciary by guaranteeing judges' security of tenure.

(17) The Committee remains concerned that the administration of pre-trial detention centres, prison camps and prisons fail to conform to the provisions of the Covenant (Covenant, arts. 7, 9 and 10).

The State party should give priority to its review and reform of the administration of the penal system.

(18) The Committee is concerned about the lack of information on acts that may be qualified in the legal order as "terrorist acts" (Covenant, arts. 2, 6, 7, 9 and 14).

The State party should define what constitutes "terrorist acts" and ensure that its legislation in this matter complies with all the guarantees provided in the Covenant, in particular articles 2, 6, 7, 9 and 14.

(19) The Committee is concerned that the State party requires an "exit visa" from its nationals for their travel abroad, and in particular that representatives of non-governmental organizations who were refused an exit visa were thereby prevented from attending meetings on human rights issues (Covenant, arts. 12 and 19).

The State party should abolish the requirement of an exit visa for its nationals.

(20) The Committee is concerned about persistent reports that journalists have been harassed in the exercise of their profession (Covenant, art. 19).

The State party should adopt appropriate measures to prevent any harassment or intimidation of journalists and ensure that its legislation and practice give full effect to the requirements of article 19 of the Covenant.

(21) The Committee remains concerned about the legal provisions and their application that restrict the registration of political parties and public associations by the Ministry of Justice (Covenant, articles 19, 22 and 25; see also paragraph 23 of the concluding observations on the initial report).

The State party is requested to bring its law, regulations and practice governing the registration of political parties into line with the provisions of articles 19, 22 and 25 of the Covenant.

(22) The Committee notes that the provisions of the Freedom of Conscience and Religious Organizations Act require religious organizations and associations to be registered in order to be able to manifest their religion or belief. It is concerned about de facto limitations on the right to freedom of religion or belief, including the fact that proselytizing constitutes a criminal offence under the Criminal Code. The Committee is also concerned about the use of criminal law to penalize the apparently peaceful exercise of religious freedom and the fact that a large number of individuals have been charged, detained and sentenced and that, while a majority of them were subsequently released, several hundred remain in prison (Covenant, article 18; see also paragraph 24 of the concluding observations on the initial report).

The State party should take steps to ensure full respect for the right of freedom of religion or belief and ensure that its legislation and practices conform fully with article 18 of the Covenant.

(23) While noting with interest information provided by the delegation that a system of compensation for women who are victims of domestic violence is already in place in parts of the State party, the Committee remains concerned about the prevalence of domestic violence in Uzbekistan (Covenant, articles 3, 7 and 26; see also paragraph 19 of the Committee's concluding observations on the initial report).

> **The State party should take suitable practical measures to combat this phenomenon, including through public awareness and education campaigns.**

(24) The Committee regrets that even though the Criminal Code prohibits polygamy, the phenomenon persists, violating women's dignity. It is also concerned about the practice of kidnapping young women to force them to marry, which resurfaced after the State party's independence (Covenant, arts. 3, 23 and 26).

> **The State party should ensure that the relevant provisions of its Criminal Code are fully implemented, so as to put an end to the practice of polygamy. It should combat the practice of forced marriages of kidnapped women.**

(25) The Committee notes that child labour is still widespread in Uzbekistan, in particular in the commercial and agricultural sectors and the cotton industry (Covenant, art. 24).

> **The State party should stop the practice of sending schoolchildren to pick cotton and take effective measures to combat child labour.**

Dissemination of information about the Covenant (art. 2)

(26) The Committee sets 1 April 2008 as the date for the submission of Uzbekistan's third periodic report. It requests that the State party's second periodic report and the present concluding observations be published and widely disseminated in Uzbekistan, to the general public as well as to the judicial, legislative and administrative authorities, and that the third periodic report be circulated for the attention of the non-governmental organizations operating in the country.

(27) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 7, 9, 10 and 11 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

90. Greece

(1) The Human Rights Committee considered the initial report of Greece (CCPR/C/GRC/2004/1) at its 2267th to 2269th meetings, on 22 and 23 March 2005 (CCPR/C/SR.2267-2269). It adopted the following concluding observations at its 2279th meeting held on 31 March 2005 (see CCPR/C/SR.2279).

Introduction

(2) The Committee welcomes the initial report of Greece and the extensive written and oral responses given to the list of issues by the delegation. Although the Committee regrets that the report was submitted almost six years after it was due, it expresses appreciation for a constructive dialogue with the State party.

Positive aspects

(3) The Committee welcomes the fact that the Greek Constitution provides for the direct applicability of the International Covenant on Civil and Political Rights within domestic law, and notes the efforts being made to disseminate the Covenant and the Committee's jurisprudence among members of the judiciary.

(4) The Committee welcomes the adoption of Law 3169/2003 on the "Bearing and use of firearms by police officers, relevant training and other provisions" and a Code of Police Ethics containing, inter alia, guidelines for arrest and detention.

(5) The Committee welcomes the recent adoption by Parliament of a law on the implementation of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation.

(6) The Committee welcomes the legislative framework and National Action Plan to combat trafficking in human beings, put in place to prevent and punish this crime and provide assistance to victims.

Principal subjects of concern and recommendations

(7) Notwithstanding a variety of programmes intended to deal with domestic violence, the Committee regrets the prevalence of domestic violence against women and the lack of specific provisions on domestic violence, including marital rape, in the current Criminal Code (Covenant, arts. 3 and 7).

> **The Committee recommends that the State party take measures to raise awareness of the problem of domestic violence and to protect the victims and include specific provisions on domestic violence in its penal legislation.**

(8) The Committee is concerned about the impediments that Muslim women might face as a result of the non-application of the general law of Greece to the Muslim minority on matters such as marriage and inheritance (arts. 3 and 23).

> **The Committee urges the State party to increase the awareness of Muslim women of their rights and the availability of remedies and to ensure that they benefit from the provisions of Greek civil law.**

(9) The Committee is concerned about reported cases of disproportionate use of force by the police, including fatal shootings, and ill-treatment at the time of arrest and during police custody. Police violence against migrants and Roma appears to be recurrent. The Committee is equally

concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases and the leniency of the courts in the few cases where law enforcement officers have been convicted (arts. 2 and 7).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill treatment, as well as sensitization on issues of racial discrimination are included in the training of law enforcement personnel;

(b) The State party should ensure that all alleged cases of torture, ill treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families. The State party is requested to provide the Committee with detailed statistical data on complaints relating to cases of torture, ill-treatment and disproportionate use of force by the police, including the outcome of the investigations on those cases, disaggregated by the national and ethnic origin of the persons subject to the use of force;

(c) The State party should inform the Committee of the progress made in reviewing the current Disciplinary Law for police officers and the status, mandate and achievements of bodies dealing with complaints against the police.

(10) The Committee notes that Greece is a main transit route for trafficking in human beings, as well as a country of destination. While welcoming the efforts made by the State party to fight this scourge, it remains concerned, in particular, about the reported lack of effective protection of the victims, many of whom are women and children, including witness protection mechanisms (arts. 3, 8 and 24).

(a) The State party should continue to take measures to combat trafficking in human beings, which constitutes a violation of several Covenant rights, including articles 3 and 24. The human rights of the victims of trafficking should be protected, including by providing a place of refuge as well as an opportunity to give evidence against the persons responsible in criminal or civil proceedings;

(b) The Committee urges the State party to protect unaccompanied alien children and to avoid the unsupervised release of such children into the general population. The absence of child welfare protection increases the danger of trafficking and exposes the children to other risks. The State party should conduct a judicial investigation concerning the approximately 500 children who went missing from the Aghia Varvara institution between 1998 and 2002 and provide the Committee with information on the outcome.

(11) The Committee is concerned about reports that undocumented aliens are detained in overcrowded facilities with poor living and sanitary conditions, are not informed of their rights, and lack any effective means of communication with their families and their lawyers (art. 10).

The State party should ensure that undocumented aliens are held in facilities with adequate living and sanitary conditions, are informed of their rights, including the right to appeal and to lodge complaints, and are afforded effective means of communication with their families and counsel.

(12) The Committee is concerned at the overcrowding and poor conditions prevailing in some jails and prisons (art. 10).

While noting the State party's efforts in this regard, the Committee recommends that the State party continue to take measures to address such problems by, inter alia, considering additional alternative measures to imprisonment.

(13) The Committee is concerned about civil law provisions that appear to authorize the imprisonment of a debtor for failure to pay a debt. Despite the State party's interpretive use of the Covenant in mitigation of this statutory provision, this law may be applied in ways that are incompatible with article 11 of the Covenant (art. 11).

The State party should bring its legislation into full conformity with the substantive obligations contained in article 11 of the Covenant.

(14) The Committee is concerned at allegations of discrimination against members of minority religions, including in the field of education. In particular, public school students are required to attend instructional classes in the Christian Orthodox religion and can opt out only after declaring their religion (art. 18).

(a) The State party should take measures to ensure full respect for the rights and freedoms of each religious community, in conformity with the Covenant;

(b) The Committee encourages the State party to hold consultations with representatives of minority religions, in order to find practical ways to permit religious instruction to be given to those desiring such opportunities. Pupils not wishing to attend religious education classes should not be obliged to declare their religion.

(15) The Committee is concerned that the length of alternative service for conscientious objectors is much longer than military service, and that the assessment of applications for such service is solely under the control of the Ministry of Defence (art. 18).

The State party should ensure that the length of service alternative to military service does not have a punitive character, and should consider placing the assessment of applications for conscientious objector status under the control of civilian authorities.

(16) While noting that a legislative amendment to ban corporal punishment in secondary schools has been tabled in Parliament, the Committee is concerned at reports of a widespread practice of corporal punishment of children in the schools (art. 24).

The Committee recommends that the State party prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence.

(17) The Committee is also concerned at the reported neglect of the situation of unaccompanied minors seeking asylum or illegally residing in the country (art. 24).

The Committee recommends that the State party develop a procedure to address the specific needs of unaccompanied non-citizen children and to ensure their best interests in the course of any immigration, expulsion and related proceedings.

(18) The Committee is concerned that the Roma people remain disadvantaged in many aspects of life covered by the Covenant (arts. 26 and 27).

(a) The State party should intensify its efforts to improve the situation of the Roma people in a manner that is respectful of their cultural identity, in particular, through the adoption of positive measures regarding housing, employment, education and social services;

(b) The State party should submit detailed information on the results achieved by public and private institutions responsible for the advancement and welfare of the Roma people.

(19) The Committee is concerned at reports of continued discrimination against individuals on the basis of their sexual orientation (arts. 17 and 26).

The State party should provide remedies against discriminatory practices on the basis of sexual orientation, as well as informational measures to address patterns of prejudice and discrimination.

(20) The Committee notes the State party's commitment to the equal enjoyment of their rights by all citizens of Greece, regardless of religion or ethnic origin. However, the Committee notes with concern the apparent unwillingness of the Government to allow any private groups or associations to use associational names that include the appellation "Turk" or "Macedonian", based upon the State party's assertion that there are no ethnic, religious or linguistic minorities in Greece other than the Muslims in Thrace. The Committee notes that individuals belonging to such minorities have a right under the Covenant to the enjoyment of their own culture, the profession and practise of their own religion, and the use of their own language in community with other members of their group (art. 27).

The State party should review its practice in light of article 27 of the Covenant.

(21) The Committee sets 1 April 2009 as the date for the submission of Greece's second periodic report. It requests that the State party's initial report and the present concluding observations be published and widely disseminated throughout the country, and that the second periodic report be brought to the attention of non-governmental organizations operating in the country.

(22) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide information within one year on the follow-up given to the Committee's recommendations in paragraphs 9, 10 (b) and 11 above. The Committee requests the State party to provide information in its next report on the other recommendations made and on the implementation of the Covenant as a whole.

91. Yemen

(1) The Human Rights Committee considered the fourth periodic report of Yemen (CCPR/C/YEM/2004/4) at its 2282nd and 2283rd meetings (CCPR/C/SR.2282 and 2283), on 11 and 12 July 2005, and adopted the following concluding observations at its 2298th meeting (CCPR/C/SR.2298), on 21 July 2005.

Introduction

(2) The Committee welcomes the timely submission of Yemen's fourth periodic report, which was drafted in conformity with the reporting guidelines and contains detailed information, including statistical data, on the implementation of the Covenant. It further appreciates the efforts made by the delegation to answer the Committee's written and oral questions. The Committee encourages the State party to increase its efforts to include in its reports more detailed information on factors and difficulties affecting the implementation of the Covenant, and on measures adopted to overcome them.

Positive aspects

(3) The Committee appreciates the creation in 2003 of the Ministry of Human Rights, as well as the declared commitment of the State party to create a culture of human rights in Yemen.

(4) The Committee welcomes the adoption of the Children's Rights Act No. 45 of 2002.

Principal subjects of concern and recommendations

(5) The Committee notes with concern that the recommendations it has addressed to Yemen in 2002 have not been fully taken into consideration, and that the State party justifies the absence of progress on several important issues by the impossibility, in its view, of respecting at the same time religious principles and certain obligations under the Covenant. The Committee disagrees with such an interpretation and stresses the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. In its view, cultural and religious specificities may be taken into consideration in order to develop adequate means to ensure respect for universal human rights, but they cannot jeopardize the very recognition of these rights for all (article 2 of the Covenant).

> **The State party should examine in good faith all recommendations addressed to it by the Committee, and find ways to ensure that its desire to abide by religious principles is implemented in a manner that is fully compatible with its obligations under the Covenant, which it has accepted without reservations.**

(6) The Committee reiterates its concern about the reported lack of efficiency and independence of the judiciary, despite the existence of constitutional guarantees and the measures taken to reform the judicial branch (arts. 2 and 14).

> **The State party should ensure that the judiciary is free from any interference, in particular from the executive branch, in law as well as in practice. The next periodic report should contain detailed information on existing legal guarantees ensuring the security of tenure of judges and their application. In particular, information should be provided on the appointment and promotion of judges, and on the disciplinary sanctions procedures.**

(7) The Committee, while welcoming the fact that the State party is currently considering establishing an independent national human rights institution, notes that such an institution has not yet been created. In this regard, the Committee wishes to stress the complementary role of such an institution with governmental institutions dealing with human rights and non-governmental organizations (art. 2).

> **The State party should work towards establishing a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).**

(8) The Committee welcomes the adoption of various measures for the advancement of women, as well as the recognition by the State party that stereotypical views of women's and men's social roles and responsibilities have had a negative impact on some aspects of Yemeni legislation. It notes with concern the high rate of illiteracy among women, which clearly hinders the enjoyment of their civil and political rights (arts. 3 and 26).

> **The State party should increase its efforts to change stereotypical attitudes detrimental to women's rights, and to promote the literacy and education of girls and women.**

(9) The Committee reiterates its deep concern about discrimination suffered by women in matters of personal status. It is concerned, in particular, about the persistence of polygamy, apparently without even the possibility for women to enter into a form of marriage that precludes polygamy, and the existence of rules discriminating against women in matters of marriage, divorce, testimony and inheritance (arts. 3 and 26).

> **The State party should review its laws in order to ensure full equality between men and women in matters of personal status and actively promote measures to combat polygamy, which is not in accordance with the Covenant.**

(10) While noting the efforts developed by the State party, the Committee remains concerned at the low level of participation of women in political life, in particular in the House of Representatives, local councils, the leadership structures of political parties, as well as in the judiciary (arts. 3 and 26).

The State party should increase its efforts to promote the participation of women in all spheres of public life, appoint more women to the judiciary and higher positions in the executive branch, and provide statistical data in its next periodic report on this issue.

(11) The Committee regrets that insufficient information was provided on the extent to which female genital mutilation is practised in Yemen. While noting that female genital mutilation can no longer be practised in hospitals and health centres, it notes with concern that, according to various sources of information, no general prohibition of those practices has been enacted (arts. 3, 6, and 7).

The State party should increase its efforts to eradicate female genital mutilation and enact a law prohibiting all persons from carrying out the practice. The State party should provide more detailed information on this issue, including (a) statistical data on the number of women and girls concerned; (b) information on proceedings, if any, instituted against perpetrators of female genital mutilation; and (c) information on the effectiveness of programmes and awareness-raising campaigns implemented in order to combat the practice.

(12) The Committee notes with concern that domestic violence remains persistent in Yemen and that the law provides for lower sentences for husbands who have murdered their wives caught in the act of adultery than is generally provided for in cases of murder (arts. 3, 6 and 7).

The State party should actively combat domestic violence through awareness-raising campaigns as well as the enactment of appropriate penal legislation. Detailed information should be provided in the next periodic report regarding proceedings instituted against perpetrators of domestic violence and assistance provided to the victims. The State party should abolish legislation providing for lower sentences in case of "honour killings".

(13) The Committee notes the statement by the State party that although its effort to combat terrorism has had an impact on the enjoyment of civil and political rights in Yemen, this has not resulted in systematic and continuing violations. The Committee remains concerned, however, about reported grave violations of articles 6, 7, 9 and 14 of the Covenant committed in the name of the anti-terrorism campaign. It notes with concern reported cases of extrajudicial killings, enforced disappearances, arbitrary arrests, indefinite detention without charge or trial, torture and ill-treatment, and deportation of non-citizens to countries where they are in danger of being subjected to torture or ill-treatment.

The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. It should bear in mind the non-derogable character of specific rights under the Covenant, in particular articles 6 and 7, which must be respected in all circumstances. The Committee wishes to receive information on the findings and recommendations of the parliamentary committee established to monitor the situation of persons being detained on terrorism charges.

(14) The Committee is concerned about the use of force by security forces on 21 March 2003, which resulted in the killing of four people, including an 11-year-old-boy, participating in a demonstration against the war in Iraq (art. 6).

> **The State party should conduct a full and impartial investigation into these events and should, depending on the findings of the investigation, institute proceedings against the perpetrators of the killings. It should also provide remedies to the victims' families.**

(15) The Committee remains concerned that the offences carrying the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in deciding whether or not the penalty is carried out on the basis of financial compensation ("blood money") is also contrary to the Covenant. Furthermore, while noting the claim that death by stoning has not been implemented for a long time in Yemen, the Committee is concerned that such a sentence may be pronounced, as shown by the case of Layla Radman 'A'esh before the court of first instance in Aden in 2000. The Committee also deplores the suffering she underwent while still under the sentence (arts. 6, 7, 14 and 26).

> **The State party should limit the cases in which the death penalty is imposed, ensure that it is applied only for the most serious crimes, and officially abolish the sentence of death by stoning. The Committee reiterates that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. The Committee wishes to be informed about the follow-up given to the case of Hafez Ibrahim, who has been condemned to death but whose age at the time of the commission of the crime has not yet been determined. The Committee also wishes to be informed, in detail, of who was sentenced to death or executed, and for what offence, during the reporting period. The State party is further encouraged to work towards the abolition of the death penalty and to accede to the Second Optional Protocol to the Covenant.**

(16) The Committee reiterates its deep concern that corporal punishments such as flogging, and in a few cases even amputation of limbs, are still prescribed by law and practised in the State party, in violation of article 7 of the Covenant.

> **The State party should immediately put an end to such practices and modify its legislation accordingly, in order to ensure its full compatibility with the Covenant.**

(17) The Committee is concerned about reports of trafficking of children out of Yemen and of women coming to or through the country, as well as the practice of expelling trafficked persons from the country without appropriate arrangements for their care (art. 8).

> **The State party should increase its efforts to combat such practices, while fully addressing the human rights entitlements and needs of the victims. More detailed information, including statistical data, should be included in the next periodic report.**

(18) The Committee reiterates its concern about the prohibition of Muslims converting to another religion, in the name of social stability and security. Such a prohibition is in violation of article 18 of the Covenant, which does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice, and of article 26, which prohibits discrimination on the ground of religion.

> **The State party should review its position and take all necessary measures to ensure the freedom of all persons to choose a religion or belief, including the right to change one's current religion or belief.**

(19) The Committee regrets that no response was provided by the delegation to the question whether Yemen law recognizes a right to conscientious objection to military service (art. 18).

> **The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service that is not of a punitive character.**

(20) The Committee is concerned about reported violations of freedom of the press, including arrest and harassment of journalists, as well as about reports regarding the restrictive character of the new draft Press and Publications Act currently under review.

> **The State party should respect freedom of the press and ensure that the new Press and Publications Act will be in full conformity with the provisions of article 19 of the Covenant.**

(21) The Committee notes with concern that the Personal Status Act allows children aged 15 to marry, and that early marriage of girls, sometimes below the age fixed by the law, persists. It is also concerned about marriages of under-age children contracted by their guardians. This practice jeopardizes the effectiveness of the consent given by spouses, their right to education and, in the case of girls, their right to health (arts. 3, 23 and 24).

> **The State party should raise the minimum age of marriage and ensure that it is respected in practice.**

Dissemination of information about the Covenant (art. 2)

(22) The Committee sets 1 July 2009 as the date for the submission of Yemen's fifth periodic report. It requests that the State party's fourth periodic report and the present concluding observations be published and widely disseminated in Yemen to the general public as well as to the judicial, legislative and administrative authorities, and that the fifth periodic report be circulated among the non-governmental organizations operating in the country.

(23) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 13, 14 and 16 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

92. Tajikistan

(1) The Human Rights Committee considered the initial report of Tajikistan (CCPR/C/TJK/2004/1) at its 2285th, 2286th and 2287th meetings (CCPR/C/SR.2285-2287), on 13 and 14 July 2005, and adopted the following concluding observations at its 2299th meeting (CCPR/C/SR.2299), on 22 July 2004.

Introduction

(2) The Committee welcomes the submission of Tajikistan's initial report, despite being submitted with some delay, prepared in accordance with the Committee's guidelines and with technical assistance from OHCHR, and notes the quality of the replies to the list of issues and the replies to the Committee's additional oral questions.

Positive aspects

(3) The Committee notes with appreciation the decrease in the number of crimes punishable by the death penalty and the moratorium of April 2004 on the imposition and execution of death sentences, as well as the commutation of all existing death sentences in the State party.

(4) The Committee welcomes the existence of legal sanctions against forced marriages and polygamy.

(5) The Committee welcomes the establishment of the State party's Commission on the Implementation of International Obligations, which, inter alia, is responsible for the coordination of the follow-up to be given to the Committee's Views under the Optional Protocol.

Principal subjects of concern and recommendations

(6) The Committee notes with concern that domestic violence against women remains a problem in Tajikistan (articles 3 and 7 of the Covenant).

> **The State party should take effective measures, including training of police officers, promotion of public awareness and, in more concrete terms, human rights training to protect women against domestic violence.**

(7) Whilst noting the efforts made by the State party to decrease the gender imbalance in government positions and to improve the status and rights of women in society, the Committee considers that much more needs to be done (arts. 3 and 26).

> **The State party should take more positive measures to ensure higher representation of women in public life.**

(8) The Committee recalls that in at least two cases, the State party has executed prisoners under sentence of death, even though their cases were pending before the Committee under the Optional Protocol to the Covenant and requests for interim measures of protection had been addressed to the State party. The Committee recalls that in acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints

from individuals under the State party's jurisdiction. Disregard of the Committee's requests for interim measures constitutes a grave breach of the State party's obligations under the Covenant and the Optional Protocol (art. 6).

> **The State party should comply fully with its obligations under the Covenant and the Optional Protocol, in accordance with the principle of *pacta sunt servanda*, and take the necessary measures to avoid similar violations in future.**

(9) The Committee is concerned about information before it that, when prisoners under sentence of death were executed, the authorities systematically failed to inform the families and relatives of the date of execution or to reveal the place of burial of the executed persons. These practices amount to a violation of article 7 of the Covenant with respect to the family and relatives of the executed persons (art. 7).

> **The State party should take urgent measures to inform families of the burial sites of those who were executed before the moratorium.**

(10) The Committee is concerned about the widespread use of ill-treatment and torture by investigation and other officials to obtain information, testimony or self-incriminating evidence from suspects, witnesses or arrested persons (arts. 7 and 14, para. 3 (g)).

> **The State party should take all necessary measures to stop this practice, to investigate promptly all complaints of the use of such practices by officials and to proceed to the rapid prosecution, conviction and punishment of those responsible, and to provide adequate compensation to the victims.**

(11) The Committee is concerned about the widespread accounts of detainees' access to a lawyer being obstructed, particularly in the period immediately following arrest. It appears that the right to consult a lawyer only arises in the State party when an arrest is registered, rather than from the actual moment of arrest (arts. 7, 9 and 14, para. 3 (b)).

> **The State party should take measures to ensure that the right to counsel arises at the moment of arrest, and that any instances where law enforcement officers are alleged to have obstructed access to a lawyer are fully investigated and appropriately punished. This right should also be ensured in respect of persons in need of free legal assistance.**

(12) The Committee is concerned that a procurator, rather than a judge, remains responsible for authorizing arrests. This creates an imbalance in the equality of arms between the accused and the prosecution, as the procurator may have an interest in the detention of those who are to be prosecuted. Further, detainees are not brought before the procurator following their arrest. An appeal to a court to review the lawfulness and grounds of arrest is possible, but it does not guarantee the participation of the detainee (art. 9).

> **The State party should revise its criminal procedure legislation and introduce a system that ensures that all detainees are as a matter of course brought promptly before a judge who will decide without delay on the lawfulness of the detention.**

(13) The Committee is concerned that a person may be placed under administrative arrest for up to 15 days, and that such detention is not subject to judicial supervision (art. 9).

> **The State party should ensure that administrative detention is subject to the same right to challenge the lawfulness of the detention as ought to pertain to other forms of detention, in light of the Committee's recommendations in paragraph 12 above.**

(14) The Committee is concerned about persistent information attesting to poor conditions and overcrowding in the State party's prisons and other places of detention, and notes the relatively high rate of incarceration. It is also concerned about reports of civil society and international bodies having limited access to penitentiary institutions (art. 10).

> **The State party should consider alternative forms of punishment, particularly in relation to minor offences, such as community work and home detention. It is invited to take all necessary measures to allow independent visits to prisons and detention facilities by representatives of both national and international organizations.**

(15) The Committee has noted that the Constitutional Court and subsequently the Supreme Court have issued rulings prohibiting the use of evidence obtained in violation of the law. However, the Committee remains concerned about the absence of any prohibitive provision in the State party's criminal procedure law to this effect (art. 14, paras. 1 and 3 (g)).

> **The State party should proceed to the necessary amendments of its Criminal Procedure Code and prohibit the use of evidence obtained in violation of the law, including under duress. All allegations of illegal use of evidence in court must be duly examined, investigations must be conducted, and courts must take into consideration the outcome of such investigations.**

(16) The Committee is concerned that an inequality of arms between the prosecutor and the suspect/accused or defence counsel exists in practice, both during a criminal investigation and in court, for example in relation to obtaining and challenging evidence (art. 14, para. 1). This inequality also appears to be reflected in the very low number of acquittals handed down in the State party's courts, as apparent from the report (for example, the acquittal rate in 2002 was approximately 0.004 per cent).

> **The State party should amend its legislation and change its practice in order to guarantee full compliance with the basic principles of a fair trial, particularly the principle of equality of arms.**

(17) The Committee is concerned about the apparent lack of independence of the judiciary, as reflected in the process of appointment and dismissal of judges as well as in their economic status (art. 14, para. 1).

> **The State party should guarantee the full independence and impartiality of the judiciary by establishing an independent body charged with the responsibility of appointing, promoting and disciplining judges at all levels and by remunerating judges with due regard for the responsibilities and the nature of their office.**

(18) The Committee notes that military courts have jurisdiction to examine criminal cases concerning both military and civil persons (art. 14, para. 1).

> **The State party should make the necessary amendments to its Criminal Procedure Code in order to prohibit this practice, strictly limiting the jurisdiction of military courts to military persons only.**

(19) The Committee is concerned about reports of several in absentia convictions, notwithstanding the prohibition by law of trials in absentia (art. 14, para. 3).

> **The State party should take all necessary measures to ensure that any trials in absentia are subject to rules that guarantee the right to defence.**

(20) The Committee is concerned that the State party does not recognize the right to conscientious objection to compulsory military service (art. 18).

> **The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service.**

(21) The Committee is concerned about persistent reports that journalists have been harassed by State officials in the exercise of their profession and that newspapers have been seized (art. 19).

> **The State party should avoid any harassment or intimidation of journalists and ensure that its legislation and practice give full effect to the requirements of article 19 of the Covenant.**

(22) The Committee is concerned about the existence in the State party's Criminal Code of broadly worded crimes such as "injuring the honour and dignity of the President" and "attempt against the constitutional order", which may lend themselves to manipulation and limitation of freedom of speech (art. 19).

> **The State party should bring its law and practice governing freedom of expression into line with the provisions of article 19 of the Covenant.**

(23) The Committee is concerned about reports of persistent recourse to corporal punishment as a means of discipline in schools (art. 24).

> **The State party should take the necessary measures to prohibit this practice.**

(24) The Committee is concerned that, despite significant progress accomplished by the State party, there have been persistent reports that Tajikistan is a major source country for trafficking in women and children (arts. 24, 3 and 8).

> **The State party should redouble its efforts to combat these serious problems, in collaboration with neighbouring countries, including with a view to protecting the human rights of victims. It should also rigorously review the activities of responsible governmental agencies to ensure that no State actors are involved.**

(25) The Committee is concerned about the possibility, in the State party's law, to refuse to register as candidates for election individuals against whom criminal proceedings are pending, notwithstanding the fact that their guilt has not been established (arts. 25 and 14, para. 2).

> **The State party should amend its legislation and practice in line with the requirements of articles 25 and 14, paragraph 2, of the Covenant, so as to ensure that persons merely charged with an offence are presumed innocent and retain their right to stand for elections.**

Dissemination of information about the Covenant (art. 2)

(26) The Committee sets 1 August 2008 as the date for the submission of Tajikistan's second periodic report. It requests that the State party's initial periodic report and the present concluding observations be published and widely disseminated in Tajikistan, to the general public as well as to the judicial, legislative and administrative authorities, and that the second report be circulated among the non-governmental organizations operating in the country.

(27) The Committee suggests that the State party continue to receive technical assistance from OHCHR and other United Nations entities dealing with human rights in Tajikistan.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 10, 12, 14, and 21 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

93. **Slovenia**

(1) The Committee considered the second periodic report of Slovenia (CCPR/C/SVN/2004/2) at its 2288th and 2289th meetings (CCPR/C/SR.2288 and 2289), on 14 and 15 July 2005, and adopted the following concluding observations at its 2302nd meeting (CCPR/C/SR.2302), on 25 July 2005.

Introduction

(2) The Committee welcomes the second periodic report submitted by Slovenia while regretting that it was submitted after a delay of seven years. The Committee expresses its appreciation for the dialogue with the competent State party delegation. The Committee also appreciates the detailed written as well as the oral answers provided by the delegation in response to questions raised and concerns expressed by the Committee.

Positive aspects

(3) The Committee welcomes the progress achieved by the State party in the field of reforms since its independence in June 1991, notably the adoption of a democratic Constitution in December 1991 and its recent amendments to enhance protection of human rights and fundamental freedoms.

(4) The Committee welcomes the fact that the provisions of the Covenant are directly enforceable as part of the domestic legal order and that they have been directly enforced by the Supreme and the Constitutional Courts.

(5) The Committee welcomes measures taken to improve the protection and promotion of human rights through:

(a) The establishment of the Human Rights Ombudsman in January 1995;

(b) The establishment of the Office for Equal Opportunity in 2001 and the Advocate for Equal Opportunity; and

(c) The establishment of the Interdepartmental Working Group on the Fight against Trafficking in Human Beings in December 2001 and the adoption of the Action Plan on the Fight against Trafficking in Persons in 2004.

(6) The Committee welcomes the adoption and/or the amendment of legislation relevant to the protection and implementation of human rights, inter alia, the Criminal Code, the Code of Criminal Procedure, the Code of Police Ethics and the Equal Opportunities Act.

Principal subjects of concern and recommendations

(7) The Committee is concerned about the high rate of domestic violence and regrets the lack of specific legal provisions and governmental programmes to prevent, combat and eliminate domestic violence (article 3 of the Covenant).

> **The State party should adopt and implement appropriate laws and policies to prevent and effectively combat violence against women, especially domestic violence, and programmes to assist the victims. In order to raise public awareness, it should initiate the necessary media campaigns and educational programmes.**

(8) The Committee is concerned about the level of participation of women in public affairs. The Committee is also concerned that women continue to be disproportionately poorly represented in the political and economic life of the State party, particularly in senior positions of the public administration (arts. 3 and 26).

> **The State party should take the necessary legal and practical measures to increase the effective participation of women in public affairs and in the political and economic sectors.**

(9) The Committee is concerned about reported cases of ill-treatment by law enforcement officials and the lack of thorough investigations and adequate punishment of the responsible officials and non-payment of compensation to the victims. The Committee is also concerned that legal assistance may not be available from the beginning of detention for those who do not have the means to pay for it (art. 7).

> **The State party should take appropriate measures to prevent and punish all forms of ill-treatment by law enforcement officials to ensure the provision of legal assistance to all from the beginning of detention and prompt, thorough, independent and impartial investigation into all allegations of violations of human rights. It**

should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation, to the victims.

(10) While acknowledging the efforts made by the State party to grant permanent resident status in Slovenia or Slovenian nationality to citizens of other republics of the former Socialist Federal Republic of Yugoslavia living in Slovenia, the Committee remains concerned about the situation of those persons who have not yet been able to regularize their situation in the State party (arts. 12 and 13).

The State party should seek to resolve the legal status of all the citizens of the successor States that formed part of the former Socialist Federal Republic of Yugoslavia who are presently living in Slovenia, and should facilitate the acquisition of Slovenian citizenship by all such persons who wish to become citizens of the Republic of Slovenia.

(11) While the Committee acknowledges the efforts of the State party to address and combat trafficking in women and children, the Committee remains concerned about this phenomenon, and about the lack of prevention and protection mechanisms for victims, including rehabilitation schemes (arts. 3, 8, 24 and 26).

The State party should continue to reinforce its measures to combat trafficking in women and children and prosecute and punish perpetrators. Protection should be provided to all victims of trafficking, including providing a place of refuge and so facilitating their giving evidence against those responsible. Prevention and rehabilitation programmes for the victims should also be established.

(12) The Committee has taken note of the efforts undertaken by the State party to reduce backlogs in court cases by adopting strategies such as the "Hercules project", but it remains concerned that the backlog is increasing for certain categories of cases (art. 14).

The State party should take steps to further reduce the backlog, while guaranteeing access to justice to all, and ensure that those persons remanded in custody for trial are brought to trial as speedily as possible.

(13) The Committee is concerned about manifestations of hate speech and intolerance in the public domain which are occasionally echoed by certain media in the State party (art. 20).

The State party should adopt strong measures to prevent and prohibit the advocacy of hate and intolerance that constitutes prohibited incitement and fulfil the provisions of article 20.

(14) The Committee is concerned about the lack of information about abuse, exploitation and maltreatment of children in the State party (arts. 23 and 24).

The State party should reinforce measures to combat abuse, exploitation and maltreatment of children, and strengthen public awareness-raising campaigns regarding children's rights.

(15) The Committee is concerned at the reported neglect of unaccompanied minors seeking asylum or illegally residing in the territory of the State party. The Committee, while recognizing that registration is distinct from conferral of nationality, is also concerned that some children are registered at birth without a nationality (art. 24).

> **The State party should develop specific procedures to address the needs of unaccompanied children and to ensure their best interests in the course of any immigration and related proceedings. The State party should also ensure the right of every child to acquire a nationality.**

(16) The Committee is concerned about the difference in the status between the so-called "autochthonous" (indigenous) and "non-autochthonous" (new) Roma communities in the State party (arts. 26 and 27).

> **The State party should consider eliminating discrimination on the basis of status within the Roma minority and provide to the whole Roma community a status free of discrimination, and improve its living conditions and enhance its participation in public life.**

(17) While noting measures undertaken to improve the living conditions of the Roma community, the Committee is concerned that the Roma community continues to suffer prejudice and discrimination, in particular with regard to access to health services, education and employment, which has a negative impact on the full enjoyment of their rights under the Covenant (arts. 2, 26 and 27).

> **The State party should take all necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant by implementing and reinforcing effective measures to prevent and address discrimination and the serious social and economic situation of the Roma.**

(18) The Committee requests that the State party's second periodic report and the present concluding observations thereon be widely disseminated throughout the State party in all appropriate languages, and that the next periodic report be brought to the attention of non-governmental organizations operating in the country before being submitted to the Committee.

(19) In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, the relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 11 and 16.

(20) The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 August 2010, information on the other recommendations made and on the Covenant as a whole.

94. Syrian Arab Republic

(1) The Committee considered the third periodic report of the Syrian Arab Republic (CCPR/C/SYR/2004/3) at its 2291st and 2292nd meetings (CCPR/C/SR.2291 and 2292), held on 18 July 2005, and adopted the following concluding observations at its 2308th meeting (CCPR/C/SR.2308), held on 28 July 2005.

Introduction

(2) The Committee welcomes the timely submission of the third periodic report by the Syrian Arab Republic, which contains detailed information on Syrian legislation in the area of civil and political rights. The Committee encourages the State party to increase its efforts to include in its reports more detailed information, including statistical data, on the implementation of the Covenant in practice.

Positive aspects

(3) The Committee welcomes the accession by the State party to other international human rights instruments in the reporting period, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the two Optional Protocols to the Convention on the Rights of the Child.

Principal subjects of concern and recommendations

(4) The Committee notes with concern that the recommendations it has addressed to the Syrian Arab Republic in 2001 have not been fully taken into consideration and regrets that most subjects of concern remain. The Committee regrets that the information provided was not sufficiently precise.

> **The State party should examine all recommendations addressed to it by the Committee and take all necessary steps to ensure that national legislation and its implementation ensure the effective enjoyment of all Covenant rights in the State party.**

(5) While welcoming the establishment of the National Committee for International Humanitarian Law, the Committee notes that it is not fully independent. Noting the delegation's statement about current plans to establish an independent national human rights institution, the Committee wishes to stress the complementary role of such an institution with respect to governmental institutions and non-governmental organizations dealing with human rights (article 2 of the Covenant).

> **The State party is encouraged to establish a national human rights institution that complies with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).**

(6) The Committee notes with concern that the state of emergency declared some 40 years ago is still in force and provides for many derogations in law or practice from the rights guaranteed under articles 9, 14, 19 and 22, among others, of the Covenant, without any convincing explanations being given as to the relevance of these derogations to the conflict with Israel and the necessity for these derogations to meet the exigencies of the situation claimed to have been created by the conflict. The Committee has further noted that the State party has not fulfilled its obligation to notify other States parties of the derogations it has made and of the reasons for these derogations, as required by article 4 (3) of the Covenant. In this regard, the Committee has noted the statement of the delegation that the Baath Party Congress in June 2005 had resolved that emergency provisions would be limited to activities which threaten State security. The Committee, however, remains concerned at the absence of any indication that the resolution has become law (art. 4).

> **The State party, guided by the Committee's general comment No. 29 (2001) on derogations during a state of emergency (article 4 of the Covenant), should ensure firstly that the measures it has taken, in law and practice, to derogate from Covenant rights are strictly required by the exigencies of the situation; secondly, that the rights provided for in article 4 (2) of the Covenant are made non-derogable in law and practice; and thirdly, that States parties are duly informed, as required by article 4 (3) of the Covenant, of the provisions from which it has derogated and the reasons therefor, and of the termination of any particular derogation.**

(7) The Committee remains concerned that the nature and number of the offences carrying the death penalty in the State party are not consistent with the requirement of the Covenant that this form of punishment must be limited to the most serious crimes. The Committee is deeply concerned at the de facto reinstitution of death sentences and executions in 2002. The Committee has noted the written replies given by the delegation and notes the insufficient information relating to the number of persons whose death sentences have been commuted, and the number of persons awaiting execution (art. 6).

> **The State party should limit the cases in which the death penalty can be imposed, in line with the Committee's previous recommendation that the State party should bring its legislation into conformity with article 6 (2) of the Covenant, which provides that a sentence of death may be imposed only for the most serious crimes, and should give precise information to explain the particular reasons for the death sentences imposed and executed.**

(8) The Committee welcomes the information provided by the delegation on the agreement of 5 May 2005 between the Prime Minister of Lebanon and the President of Syria to establish a committee that would meet periodically to further investigate the facts concerning disappearances of Syrian and Lebanese nationals in the two countries. The Committee remains concerned, however, that sufficient information was not provided about concrete steps taken to establish such a committee in Syria, as well as about its envisaged composition and measures to ensure its independence (arts. 2, 6, 7, 9).

The State party should give a particularized account of Lebanese nationals and Syrian nationals, as well as other persons, who were taken into custody or transferred into custody in Syria and who have not heretofore been accounted for. The State party should also take immediate steps to establish an independent and credible commission of inquiry into all disappearances, in line with the recommendations the Committee made in 2001.

(9) While noting the information provided by the State party on measures taken against some law enforcement personnel for acts of ill-treatment of prisoners, the Committee remains deeply concerned at continuing reports of torture and cruel, inhuman or degrading treatment or punishment. The Committee is also concerned that these practices are facilitated by resort to prolonged incommunicado detention, especially in cases of concern to the Supreme State Security Court, and by the security or intelligence services (arts. 2, 7, 9 and 10).

The State party should take firm measures to stop the use of incommunicado detention and eradicate all forms of torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials, and ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.

(10) The Committee notes the statement by the delegation regarding the establishment of a committee to revise legislation governing the Supreme State Security Court. The Committee reiterates its previous concern that the procedures of this court are incompatible with article 14 of the Covenant (art. 14).

The State party should take urgent measures to ensure that all rights and guarantees provided under article 14 of the Covenant are respected in the composition, functions and procedures of the Supreme State Security Court and in particular that accused persons are granted the right to appeal against decisions of the Court.

(11) The Committee takes note of the information provided by the delegation whereby Syria does not recognize the right to conscientious objection to military service, but that it permits some of those who do not wish to perform such service to pay a certain sum in order not to do so (art. 18).

The State party should respect the right to conscientious objection to military service and establish, if it so wishes, an alternative civil service of a non-punitive nature.

(12) The Committee is concerned at the obstacles imposed on the registration and free operation of non-governmental human rights organizations in the State party and the intimidation, harassment and arrest of human rights defenders. It also continues to be deeply concerned about the continuing detention of several human rights defenders and the refusal to register certain human rights organizations (arts. 9, 14, 19, 21 and 22).

> **The State party should immediately release all persons detained because of their activities in the field of human rights and end all harassment and intimidation of human rights defenders. Furthermore, the State party should take urgent steps to amend all legislation that restricts the activities of these organizations, in particular state of emergency legislation which must not be used as an excuse to suppress activities aimed at the promotion and protection of human rights. The State party should ensure that its law and practice allow these organizations to operate freely.**

(13) The Committee is concerned at the extensive limitations on the right to freedom of opinion and expression in practice, which go beyond the limitations permissible under article 19 (3). Furthermore, the Committee is concerned at allegations that the Government has blocked access to some Internet sites used by human rights defenders or political activists (art. 19).

> **The State party should revise its legislation to ensure that any limitations on the right to freedom of opinion and expression are in strict compliance with article 19 of the Covenant.**

(14) While welcoming the statement by the delegation that the Publications Act of 2001 is in the process of being appropriately revised, the Committee is concerned at its nature and application. The Committee has also noted in this regard the information provided by the delegation that a new law for audio-visual media is being prepared (art. 19).

> **The State party should ensure that all legislation governing audio-visual and print media and the licensing regime are in full compliance with the requirements of article 19, and that any limitations on the content of publications and media broadcasts fall within the strict limits permissible under article 19 (3).**

(15) The Committee regrets that no statistical information was provided on the exercise in practice of the right to freedom of assembly. While noting the view held by the delegation that protests such as the peaceful demonstration on 25 June 2003 outside UNICEF headquarters in Damascus had not obtained the required permit, the Committee is concerned that the laws and regulations and their application prevent the exercise of the right to peaceful assembly (art. 21).

> **The State party should take all necessary measures to guarantee the exercise in practice of the right to peaceful assembly and should provide statistical information on the number of and grounds for denials of applications, the number of cases where denials have been appealed, the number of rejected appeals and on what grounds.**

(16) The Committee reiterates its previous concern that, despite article 25 of the Constitution, discrimination against women continues to exist in law and practice in matters related to marriage, divorce and inheritance, and that the Penal Code contains provisions discriminating against women, including providing lesser penalties for crimes committed by men in the name of honour. It notes the statement by the delegation that a commission is currently considering amendments to the personal status laws and that the provisions of the Penal Code with regard to honour crimes are currently being revised (arts. 3, 6 and 26).

The State party should review its laws in order to ensure equality between men and women in matters of personal status, and to eliminate any discrimination against women in the Penal Code.

(17) While noting the statement by the delegation that a national strategy for women has been initiated, the Committee notes that the participation of women in public life remains low (art. 3).

The State party should take appropriate steps towards achieving balanced representation of women in public life.

(18) The Committee notes the information provided by the State party and the delegation's statement as to the absence of any discrimination on grounds of race, colour, descent, or national or ethnic origin in the State party. However, the Committee remains concerned at discrimination against Kurds and that the practical enjoyment by the Kurdish population of their Covenant rights is not fully guaranteed (arts. 26 and 27).

The State party should ensure that all members of the Kurdish minority enjoy effective protection against discrimination and are able to enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

(19) The Committee has noted the information provided by the State party with regard to the stateless Kurds. The Committee remains concerned at the situation of the large number of Kurds treated as aliens or unregistered persons and the discrimination experienced by them. The Committee reminds the State party that the Covenant is applicable to all individuals subject to its jurisdiction (arts. 2 (1), 24, 26 and 27).

The State party should take urgent steps to remedy the situation of statelessness of Kurds in Syria and to protect and promote the rights of non-citizen Kurds. The Committee further urges the State party to allow Kurdish children born in Syria to acquire Syrian nationality.

Dissemination of information about the Covenant

(20) The State party should publish and widely disseminate its third periodic report by the Committee and the present concluding observations thereon to the general public as well as the judicial, legislative and administrative authorities, and it should circulate the fourth periodic report among the non-governmental organizations operating in the country.

(21) The Committee suggests that the State party seek technical assistance from OHCHR and other United Nations entities or agencies dealing with human rights.

(22) In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 6, 8, 9 and 12 above. The Committee requests the State party to include in its next periodic report information concerning the remainder of its recommendations, to be presented by 1 August 2009.

95. Thailand

(1) The Committee considered the initial report of Thailand (CCPR/C/THA/2004/1) at its 2293rd, 2294th and 2295th meetings (CCPR/C/SR.2293-2295), held on 19 and 20 July 2005, and adopted the following concluding observations at its 2307th meeting (CCPR/C/SR.2307), held on 28 July 2005.

Introduction

(2) The Committee welcomes the high quality of the report submitted by the State party, while regretting that it was submitted with a delay of over six years. The Committee also notes with appreciation the written and oral information provided by the delegation in reply to the Committee's questions. It expresses its appreciation for the high-level and competent delegation of the State party and its openness in providing information.

Positive aspects

(3) The Committee welcomes the promulgation, following the State party's ratification of the Covenant, of a new Constitution in 1997 which contains many of the rights and freedoms protected under the Covenant.

(4) The Committee welcomes the establishment of:

(a) The National Human Rights Commission as a mechanism to promote respect for human rights under sections 199 and 200 of the Constitution;

(b) The Department for the Protection of Rights and Liberties under the Ministry of Justice;

(c) The National Reconciliation Commission, seeking peaceful solutions to the situation in the southern provinces; and

(d) The National Child Protection Committee and provincial child protection committees.

(5) The Committee welcomes the enactment of the Child Protection Act.

(6) The Committee notes with appreciation the adoption of the National Plan of Action on Human Rights.

Principal subjects of concern and recommendations

(7) The Committee notes that some of the declarations made at the time of the accession by Thailand amount to reservations, and regrets their maintenance (article 2 of the Covenant).

The State party should consider the withdrawal of such declarations.

(8) The Committee notes that the Covenant has not been fully incorporated into domestic law and that its provisions are not in practice invoked in courts of law unless they have been specifically incorporated by legislation (art. 2).

The State party should guarantee the effective protection of all rights enshrined in the Covenant and ensure that they are fully respected and enjoyed by all.

(9) While welcoming the important work of the National Human Rights Commission in the promotion and protection of human rights, the Committee is concerned that many of its recommendations to the relevant authorities have not been implemented. The Committee is also concerned about the lack of sufficient resources allocated to the Commission (art. 2).

The State party should ensure that recommendations of the National Human Rights Commission are given full and serious follow-up. It should also ensure that the Commission is endowed with sufficient resources to enable it effectively to discharge all of its mandated activities in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

(10) The Committee is concerned at the persistent allegations of serious human rights violations, including widespread instances of extrajudicial killings and ill-treatment by the police and members of armed forces, illustrated by incidents such as the Tak Bai incident in October 2004, the Krue Se mosque incident on 28 April 2004 and the extraordinarily large number of killings during the "war on drugs" which began in February 2003. Human rights defenders, community leaders, demonstrators and other members of civil society continue to be targets of such actions, and any investigations have generally failed to lead to prosecutions and sentences commensurate with the gravity of the crimes committed, creating a culture of impunity. The Committee further notes with concern that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article 2, paragraph 3, of the Covenant (arts. 2, 6, 7).

The State party should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress. Furthermore, it should continue its efforts to train police officers, members of the military and prison officers to scrupulously respect applicable international standards. The State party should actively pursue the idea of establishing an independent civilian body to investigate complaints filed against law enforcement officials.

(11) The Committee notes with concern that the provisions of the Civil Code are discriminatory against women with regard to grounds for divorce (arts. 3 and 26).

The State party should amend the provisions of the Civil Code governing grounds for divorce in line with articles 3 and 26 of the Covenant.

(12) Notwithstanding the pending enactment of the Prevention of Domestic Violence Bill and the measures taken by the State party, including the "white ribbons" campaign, the Committee is concerned at reports that domestic violence is prevalent and that specific legal provisions on domestic violence, including marital rape, are lacking in the State party's legislation (arts. 3, 7, 26).

> **The State party should adopt the necessary policy and legal frameworks to effectively combat domestic violence. It should establish crisis-centre hotlines and victim support centres equipped with medical, psychological and legal support, including shelters. Law enforcement officials, in particular police officers, should also be provided with appropriate training to deal with cases of domestic violence, and awareness-raising efforts should be continued to widely sensitize members of the public.**

(13) The Committee is concerned that the Emergency Decree on Government Administration in States of Emergency which came into immediate effect on 16 July 2005, and on the basis of which a state of emergency was declared in three southern provinces, does not explicitly specify, or place sufficient limits, on the derogations from the rights protected by the Covenant that may be made in emergencies and does not guarantee full implementation of article 4 of the Covenant. It is especially concerned that the Decree provides for officials enforcing the state of emergency to be exempt from legal and disciplinary actions, thus exacerbating the problem of impunity. Detention without external safeguards beyond 48 hours should be prohibited (art. 4).

> **The State party should ensure that all the requirements of article 4 of the Covenant are complied with in its law and practice, including the prohibition of derogation from the rights listed in its paragraph 2. In this regard, the Committee draws the attention of the State party to its general comment No. 29 and the obligations imposed upon the State party to inform other States parties, as required by its paragraph 3.**

(14) The Committee notes with concern that the death penalty is not restricted to the "most serious crimes" within the meaning of article 6, paragraph 2, and is applicable to drug trafficking. The Committee regrets that, despite the amendment in 2003 of the Penal Code, which prohibits imposition of the death penalty on persons below 18 years of age, the State party has not yet withdrawn its declaration to the Covenant on article 6, paragraph 5 (art. 6).

> **The State party should review the imposition of the death penalty for offences related to drug trafficking in order to reduce the categories of crime punishable by death. The State party should also consider the withdrawal of its declaration on article 6, paragraph 5, of the Covenant.**

(15) The Committee is concerned about the persistent allegations of excessive use of force by law enforcement officials, as well as ill-treatment at the time of arrest and during police custody. The Committee is also concerned about reports of the widespread use of torture and cruel, inhuman or degrading treatment of detainees by law enforcement officials, including in the so-called "safe houses". It is also concerned at the impunity flowing from the fact that only a few of the investigations into cases of ill-treatment have resulted in prosecutions, and fewer, in convictions, and that adequate compensation to victims has not been provided (art. 2, 7, 9).

The State party should guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention. The arrested person should have an opportunity immediately to inform the family about the arrest and place of detention. Provision should be made for a medical examination at the beginning and end of the detention period. Provision should also be made for prompt and effective remedies to allow detainees to challenge the legality of their detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge. The State party should ensure that all alleged cases of torture, ill-treatment, disproportionate use of force by police and death in custody are fully and promptly investigated, that those found responsible are brought to justice, and that compensation is provided to the victims or their families.

(16) The Committee is concerned at the overcrowding and general conditions of places of detention, particularly with regard to sanitation and access to health care and adequate food. The Committee is also concerned that the right of detainees of access to lawyers and members of the family is not always observed in practice. The Committee considers the duration of detention before a person is brought before a judge to be incompatible with the requirements of the Covenant. The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement. Pre-trial detainees frequently are not segregated from convicted prisoners. Furthermore, the Committee is concerned at the significant number of women in the prison population and the fact that juveniles are often held in adult cells (arts. 7, 10 and 24).

The State party should bring prison conditions into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners as a matter of priority. The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly with regard to hygienic conditions, access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. The use of shackling and long periods of solitary confinement should be stopped immediately. Special protection should be provided for juveniles, including their compulsory segregation from adults.

(17) While acknowledging the delegation's assurances that the Provincial Admission Board is in the process of being established, the Committee notes with concern the lack of a systematic adjudication procedure for asylum-seekers. The Committee is also concerned that the relocation plan of March 2005 requires all refugees from Myanmar in the State party to move to the camps along the border and that those who do not comply will be considered illegal migrants and will face forcible deportation to Myanmar. Furthermore, the Committee is concerned about the deplorable situation of the Hmong people in Petchabun Province, the majority of them women and children who are not considered refugees by the State party and are facing imminent deportation to a State where they fear they will be persecuted. Finally, the Committee notes with concern that the current screening and expulsion procedures contain no provisions guaranteeing respect for the rights protected by the Covenant (arts. 7 and 13).

The State party should establish a mechanism to prohibit the extradition, expulsion, deportation or forcible return of aliens to a country where they would be at risk of torture or ill-treatment, including the right to judicial review with suspensive effect. The State party should observe its obligation to respect a fundamental principle of international law, the principle of non-refoulement.

(18) The Committee is concerned about reports of intimidation and harassment against local and foreign journalists and media personnel as well as of defamation suits against them, originating at the highest political level. It is also concerned at the impact of the Emergency Decree on Government Administration in States of Emergency which imposes serious restrictions on media freedom (art. 19, para. 3).

The State party should take adequate measures to prevent further erosion of freedom of expression, in particular, threats to and harassment of media personnel and journalists, and ensure that such cases are investigated promptly and that suitable action is taken against those responsible, regardless of rank or status.

(19) While welcoming the aspiration of the State party to accept and foster a vibrant civil society, including many human rights organizations, the Committee is nevertheless concerned at the number of incidents against human rights defenders and community leaders, including intimidation and verbal and physical attacks, enforced disappearances and extrajudicial killings (arts. 19, 21 and 22).

The State party must take measures to immediately halt and protect against harassment and attacks against human rights defenders and community leaders. The State party must systematically investigate all reported instances of intimidation, harassment and attacks and guarantee effective remedies to victims and their families.

(20) Notwithstanding the serious efforts undertaken by the State party to address the issue of trafficking in persons, including the establishment in March 2005 of the National Committee on Prevention and Suppression of Human Trafficking, and while welcoming the planned enactment of the new law on human trafficking, the Committee remains concerned that Thailand is a major country of origin, transit and destination for trafficking in persons for purposes of sexual exploitation and forced labour. The Committee is also concerned that child prostitution remains widespread. The Committee notes with concern that certain groups are at a particularly higher risk of being sold, trafficked and exploited, i.e. street children, orphans, stateless persons, migrants, persons belonging to ethnic minorities and refugees/asylum-seekers (arts. 8 and 24).

The State party should continue and strengthen its measures to prosecute and punish trafficking and to adequately protect the human rights of all witnesses and victims of trafficking, in particular by securing their places of refuge and opportunities to give evidence. The State party should enact the Suppression of Human Trafficking Bill without delay.

(21) The Committee is concerned about the significant proportion of children, often stateless or of foreign nationality, in the State party who engage in labour and, as explained by the delegation, are often victims of trafficking (arts. 8 and 24).

> **The State party should strengthen the enforcement of the existing legislation and policies against child labour. Victims of trafficking must be afforded adequate protection. The State party should make every effort, including preventive measures, to ensure that children who engage in labour do not work under conditions harmful to them and that they continue to have access to education. The State party should take action to implement policies and legislation for the eradication of child labour, inter alia through public-awareness campaigns and education of the public on the protection of the rights of children.**

(22) Notwithstanding the corrective measures taken by the State party, most notably through the Central Registration Regulations 1992 and 1996, to address the issue of statelessness among ethnic minorities, including the Highlanders, the Committee remains concerned that a significant number of persons under its jurisdiction remain stateless, with negative consequences for the full enjoyment of their Covenant rights, as well as the right to work and their access to basic services, including health care and education. The Committee is concerned that their statelessness renders them vulnerable to abuse and exploitation. The Committee is also concerned about the low levels of birth registration, especially among Highlander children. (arts. 2 and 24).

> **The State party should continue to implement measures to naturalize the stateless persons who were born in Thailand and are living under its jurisdiction. The State party should also review its policy regarding birth registration of children belonging to ethnic minority groups, including the Highlanders, and asylum-seeking/refugee children, and ensure that all children born in the State party are issued with birth certificates.**

(23) The Committee is concerned about the lack of full protection of the rights of registered and unregistered migrant workers in Thailand, particularly with regard to liberty of movement, access to social services and education, and access to personal documents. The deplorable conditions in which migrants are obliged to live and work indicate serious violations of articles 8 and 26 of the Covenant. The Committee notes that ethnic minorities and migrants from Myanmar are particularly vulnerable to exploitation by employers as well as to deportation by the Thai authorities. The Committee is also concerned that a significant number of migrant workers, mainly from Myanmar, are still missing in the aftermath of the tsunami in December 2004 and that others were not provided with the necessary humanitarian assistance due to their lack of legal status (arts. 2, 8 and 26).

> **The State party must take measures to effectively implement the existing legislation providing for the rights of migrant workers. Migrant workers should be afforded full and effective access to social services, educational facilities and personal documents, in accordance with the principle of non-discrimination. The State party should consider establishing a governmental mechanism to which migrant workers can report violations of their rights by their employers, including illegal withholding of their personal documents. The Committee also recommends that humanitarian assistance be effectively provided to all victims of the tsunami disaster without discrimination, regardless of their legal status.**

(24) The Committee expresses its concern about the structural discrimination by the State party against minority communities, in particular the Highlanders with regard to citizenship, land rights, freedom of movement and the protection of their way of life. The Committee notes with

concern the treatment of the Highlanders by law enforcement officials, in particular their forced eviction and relocation in the context of the 1992 Master Plan on Community Development, Environment and Narcotic Crop Control in Highland Areas, which gravely affected their livelihood and way of life, as well as the reports of extrajudicial killings, harassment and confiscation of property in the context of the "war on drugs" campaign. The Committee is also concerned about the construction of the Thai-Malaysian Gas Pipeline and other development projects which have been carried out with minimal consultation with the concerned communities. In addition, the Committee is concerned about violent suppression of peaceful demonstrations by law enforcement officers in contravention of articles 7, 19, 21 and 27 of the Covenant (arts. 2, 7, 19, 21 and 27).

> **The State party should guarantee the full enjoyment of the rights of persons belonging to minorities that are set out in the Covenant, in particular with respect to the use of land and natural resources, through effective consultations with local communities. The State party should respect the rights of persons belonging to minorities to enjoy their own culture, to profess and practice their own religion, and to use their own language in community with other members of their group.**

Dissemination of information about the Covenant (art. 2)

(25) The second periodic report should be prepared in accordance with the Committee's reporting guidelines and be submitted by 1 August 2009. The State party should pay particular attention to providing practical information on the implementation of legal standards existing in the country. The Committee requests that the text of the present concluding observations be published and disseminated throughout the country.

(26) In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should provide information, within one year, on its response to the Committee's recommendations contained in paragraphs 13, 15 and 21. The Committee requests the State party to provide information in its next report on the other recommendations made and on the implementation of the Covenant as a whole.

CHAPTER V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

96. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 155 States that have ratified, acceded or succeeded to the Covenant, 105 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, section B). Since the last annual report, two States (Liberia and Mauritania) became parties to the Covenant, and one State (Honduras) became a party to the Optional Protocol.

97. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (article 5, paragraph 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue a communication) are made public; the names of the authors are disclosed unless the Committee decides otherwise.

98. Communications addressed to the Human Rights Committee are processed by the Petitions Unit of OHCHR. This Unit services also the communications procedures under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

A. Progress of work

99. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,414[1] communications concerning 78 States parties have been registered for consideration by the Committee, including 112 registered during the period covered by the present report. The status of the 1,414 communications registered is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 500, including 392 in which violations of the Covenant were found;

(b) Declared inadmissible: 394;

(c) Discontinued or withdrawn: 193;

(d) Not yet concluded: 327.

100. In addition, during the period under review the Petitions Unit received several hundred communications in respect of which complainants were advised that further information would be needed before their communications could be registered for consideration by the Committee.

The authors of more than 3,982 letters were informed that their cases would not be dealt with by the Committee, for example, because they fell clearly outside the scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept in the Secretariat and reflected in the Secretariat's database.

101. During the eighty-second to eighty-fourth sessions, the Committee concluded consideration of 27 cases by adopting Views thereon. These are cases Nos. 823/1998 (*Czernin v. The Czech Republic*), 879/1998 (*Howard v. Canada*), 903/2000 (*Van Hulst v. The Netherlands*), 912/2000 (*Ganga v. Guyana*), 931/2000 (*Hudoyberganova v. Uzbekistan*), 945/2000 (*Marik v. The Czech Republic*), 968/2001 (*Jong-Cheol v. The Republic of Korea*), 971/2001 (*Arutyuniantz v. Uzbekistan*), 973/2001 (*Khalilov v. Tajikistan*), 975/2001 (*Ratiani v. Georgia*), 1023/2001 (*Länsman III v. Finland*), 1061/2002 (*Fijalkovska v. Poland*), 1073/2002 (*Terón Jesús v. Spain*), 1076/2002 (*Olavi v. Finland*), 1089/2002 (*Rouse v. The Philippines*), 1095/2002 (*Gomariz v. Spain*), 1101/2002 (*Alba Cabriada v. Spain*), 1104/2002 (*Martínez v. Spain*), 1107/2002 (*El Ghar v. The Libyan Arab Jamahiriya*), 1110/2002 (*Roland v. The Philippines*), 1119/2002 (*Lee v. The Republic of Korea*), 1128/2002 (*Marques de Morais v. Angola*), 1134/2002 (*Gorji-Dinka v. Cameroon*), 1155/2003 (*Leirvag v. Norway*), 1189/2003 (*Fernando v. Sri Lanka*), 1207/2003 (*Malakovsky v. Belarus*) and 1222/2003 (*Byaruhunga v. Denmark*). The text of these Views is reproduced in annex V (Volume II).

102. The Committee also concluded consideration of 38 cases by declaring them inadmissible. These are cases Nos. 851/1999 (*Zhurin v. The Russian Federation*), 860/1998 (*Álvarez Fernández v. Spain*), 918/2000 (*Vedeneyev v. The Russian Federation*), 939/2000 (*Dupuy v. Canada*), 944/2000 (*Chanderballi v. Austria*), 954/2000 (*Minogue v. Australia*), 958/2000 (*Jazairi v. Canada*), 967/2001 (*Ostroukhov v. The Russian Federation*), 969/2001 (*da Silva v. Portugal*), 988/2001 (*Gallego v. Spain*), 1037/2001 (*Bator v. Poland*), 1092/2002 (*Guillén v. Spain*), 1097/2002 (*Martínez v. Spain*), 1099/2002 (*Marín v. Spain*), 1105/2002 (*López v. Spain*), 1127/2002 (*Karawa v. Australia*), 1118/2002 (*Deperraz v. France*), 1182/2003 (*Karatzis v. Cyprus*), 1185/2003 (*van den Hemel v. The Netherlands*), 1188/2003 (*Riedl-Riedenstein v. Germany*), 1192/2003 (*de Vos v. The Netherlands*), 1193/2003 (*Sanders v. The Netherlands*), 1204/2003 (*Booteh v. The Netherlands*), 1210/2003 (*Damianos v. Cyprus*), 1220/2002 (*Hoffman v. Canada*), 1235/2003 (*Celal v. Greece*), 1292/2004 (*Radosevic v. Germany*), 1326/2004 (*Morote and Mazón v. Spain*), 1329-1330/2004 (*Pérez Munuera v. Spain*), 1333/2004 (*Calvet v. Spain*), 1336/2004 (*Chung v. Australia*), 1356/2005 (*Parra Corral v. Spain*), 1357/2005 (*Kolyada v. The Russian Federation*), 1371/2005 (*Mariategui et al. v. Argentina*), 1379/2005 (*Queenan v. Canada*), 1389/2005 (*Bertelli v. Spain*) and 1399/2005 (*Cuartero v. Spain*). The text of these decisions is reproduced in annex VI (Volume II).

103. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request, however, will not release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

104. During the period under review, three communications were declared admissible separately, as above, for examination on the merits. Decisions declaring communications admissible are not normally published by the Committee. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 92 and 97 of the Committee's rules of procedure).

105. The Committee decided to close the file of four communications following withdrawal by the author (cases Nos. 1168/2003, *Santos et al. v. Australia;* 1230/2003, *Ghenifa v. Algeria;* 1254/2004, *Mandavi v. Australia;* and 1337/2004, *Gholipour v. Australia*) and to discontinue the consideration of seven communications because counsel lost contact with the author (case No. 1257/2004, *Shamsei v. Australia*); for having become moot as a result of legislative changes in the State party (case No. 979/2001, *Kapuskyi v. Belarus*); or because the author and/or counsel failed to respond to the Committee despite repeated reminders (cases Nos. 849/1999, *Da Pieve Gerardo et al. v. Spain*; 974/2001, *Korbesashvili v. Georgia*; 997/2001, *Roberts v. Barbados*; 1203/2003, *Sukleva v. The former Yugoslav Republic of Macedonia;* and 1273/2004, *Manhavian v. Australia*).

B. Growth of the Committee's caseload under the Optional Protocol

106. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last eight calendar years to 31 December 2004.

C. Communications dealt with, 1997-2004

Year	New cases registered	Cases concluded[a]	Pending cases at 31 December
2005[b]	77	58	318
2004	100	78	299
2003	88	89	277
2002	107	51	278
2001	81	41	222
2000	58	43	182
1999	59	55	167
1998	53	51	163

[a] Total number of all cases decided (by the adoption of Views, inadmissibility decisions and cases discontinued).

[b] As of 31 July 2005.

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

107. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's eighty-second session, in October 2004,

Mr. Kälin was designated as the new Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 112 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 17 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw, requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.[2]

2. Competence of the Working Group on Communications

108. At its thirty-sixth session, in July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, three communications were declared admissible by the Working Group on Communications.

109. The Working Group also makes recommendations to the Committee declaring communications inadmissible. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of procedure may decide to declare a communication inadmissible, when it is composed of at least five members and all the members so agree. The decision will be transmitted to the Committee plenary, which may confirm it and adopt it without further discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision."

110. At its fifty-fifth session, in October 1995, the Committee decided that each communication would be entrusted to one member of the Committee, who would act as rapporteur for it in the Working Group and in the plenary Committee. The role of the rapporteur is described in the report for 1997.[3]

D. Individual opinions

111. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual (concurring or dissenting) opinions to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

112. During the period under review, individual opinions were appended to the Committee's Views in cases Nos. 823/1998 (*Czernin v. The Czech Republic*), 931/2000 (*Hudoyberganova v. Uzbekistan*), 968/2001 (*Jong-Choel v. The Republic of Korea*), 1095/2002 (*Gomariz v. Spain*), 1110/2002 (*Rolando v. The Philippines*) and 1222/2003 (*Byaruhunga v. Denmark*). Individual opinions were appended with respect to the inadmissibility decisions on communications Nos. 944/2000 (*Chanderballi v. Austria*), 958/2000 (*Jazairi v. Canada*) and 969/2001 (*da Silva v. Portugal*).

E. Issues considered by the Committee

113. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its eighty-first session in July 2004 can be found in the Committee's annual reports for 1984 to 2004, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available on the treaty body database of the OHCHR website (www.unhchr.ch).

114. Four volumes of "Selected Decisions of the Human Rights Committee under the Optional Protocol", from the second to the sixteenth sessions (1977-1982), from the seventeenth to the thirty-second sessions (1982-1988), from the thirty-third to the thirty-ninth sessions (1980-1990) and from the fortieth to the forty-sixth sessions (1990-1992), have been published. Volume V was to be published in July 2005. By early 2006, it is hoped that the series of Selected Decisions will be brought up to date. As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions be available on a worldwide basis in a properly compiled and indexed volume.

115. The following summary reflects developments concerning issues considered during the period covered by the present report. In order to reduce the length of the report, only the most significant decisions have been covered.

1. Procedural issues

(a) Reservations and interpretative declarations

116. In case No. 954/2000 (*Minogue v. Australia*) the Committee considered the reservation made by Australia to article 10, paragraph 2 (a), of the Covenant, which states that the principle of segregation of accused from convicted persons is an objective to be achieved progressively. The Committee recalled its previous jurisprudence that while it may be considered unfortunate that the State party has not so far achieved its objective to segregate convicted and unconvicted persons in full compliance with article 10, paragraph 2 (a), it cannot be said that the reservation is incompatible with the object and purpose of the Covenant.

(b) Inadmissibility *ratione temporis* (Optional Protocol, art. 1)

117. Under article 1 of the Optional Protocol, the Committee may only receive communications concerning alleged violations of the Covenant which occurred after the entry into force of the Covenant and the Optional Protocol for the State party concerned, unless continuing effects exist which in themselves constitute a violation of a Covenant right. It thus declared inadmissible, under article 1 of the Optional Protocol, communication No. 969/2001 (*da Silva v. Portugal*).

118. In case No. 851/1999 (*Zhurin v. The Russian Federation*) the Committee addressed the issue of "continuing effects" when declaring the communication inadmissible. It recalled its jurisprudence that a term of imprisonment, without the involvement of additional factors, does

not amount per se to a "continuing effect", in violation of the Covenant, sufficient to bring the original circumstances giving rise to the imprisonment *ratione temporis* within the Committee's jurisdiction.

(c) Inadmissibility for lack of standing as a victim (Optional Protocol, art. 1)

119. In case No. 954/2000 (*Minogue v. Australia*) the Committee recalled its jurisprudence that where a violation of the Covenant is remedied at the domestic level prior to the submission of the communication, it may consider the communication inadmissible on grounds of lack of "victim" status or absence of a "claim". In this case, although the author's claims were apparently remedied by the State party prior to submission of the complaint, the author had in his latest submission informed the Committee that he had been transferred back to the prison where at least some of his original complaints were again valid. In those circumstances, the Committee found that the author could be considered a "victim", and his claims were not inadmissible merely because the State party provided him with relief at one point.

120. In case No. 1134/2002 (*Gorji-Dinka v. Cameroon*) the author claimed that his and his people's right to self-determination had been violated. The Committee recalled that it did not have competence under the Optional Protocol to consider claims alleging a violation of the right to self-determination protected in article 1 of the Covenant. The Optional Protocol provided a procedure under which individuals could claim that their individual rights had been violated. These rights were set out in Part III (articles 6-27) of the Covenant. The Committee accordingly declared this claim inadmissible under article 1 of the Optional Protocol.

121. In case No. 1371/2005 (*Mariategui v. Argentina*), the authors claimed to be victims of violations of their rights under several articles of the Covenant because of the alleged failure of the State party to redress the damages caused to them as owners of a company, arising from the alleged violation of four contracts for the construction of public works in which the company acted either as the main creditor or as cessionary of the creditor. The Committee considered that the authors were essentially claiming rights that allegedly belonged to a private company with an entirely separate legal personality and not to them as individuals. It concluded that the authors had no standing under article 1 of the Optional Protocol and that, therefore, the communication was inadmissible *ratione personae*.

122. Other claims declared inadmissible for lack of victim status are contained in joint cases Nos. 1329/2004 and 1330/2004 (*Pérez and Hernández v. Spain*), 1333/2004 (*Calvet v. Spain*) and 1379/2005 (*Queenan v. Canada*).

(d) Claims not substantiated (Optional Protocol, art. 2)

123. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

124. Although an author does not need to prove the alleged violation at the admissibility stage, he or she must submit sufficient materials substantiating his/her allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by

substantiating material. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, the Committee has held the communication inadmissible, in accordance with rule 96 (b) of its rules of procedure.

125. Claims were declared inadmissible for lack of substantiation in cases Nos. 860/1999 (*Álvarez Fernández v. Spain*), 903/1999 (*van Hulst v. The Netherlands*), 944/2000 (*Mahabir v. Austria*), 939/2000 (*Dupuy v. Canada*), 1092/2002 (*Guillén v. Spain*), 1128/2002 (*Marques de Morais v. Angola*), 1134/2002 (*Gorji-Dinka v. Cameroon*), 1182/2003 (*Karatsis v. Cyprus*), 1185/2003 (*van den Hemel v. The Netherlands*), 1192/2003 (de *Vos v. The Netherlands*), 1193/2003 (*Sanders v. The Netherlands*), 1204/2003 (*Booteh v. The Netherlands*), 1210/2003 (*Damianos v. Cyprus*), 1292/2004 (*Radosevic v. Germany*), 1329/2004 and 1330/2004 (*Pérez and Hernández v. Spain*), 1356/2005 (*Parra v. Spain*), 1389/2005 (*Bertelli v. Spain*).

(e) Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)

126. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a particular conclusion of fact is one that is reasonably available to a trier of fact on the basis of the evidence before it, a showing of manifest arbitrariness or a denial of justice will not have been made out. Claims involving a re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol, including cases Nos. 903/1999 (*van Hulst v. The Netherlands*), 958/2000 (*Jazairi v. Canada*), 967/2001 (*Ostroukhov v. The Russian Federation*), 1037/2001 (*Bator v. Poland*), 1076/2002 (*Kasper and Olavi v. Finland*), 1092/2002 (*Guillén v. Spain*), 1095/2002 (*Gomariz v. Spain*), 1097/2002 (*Martínez et al. v. Spain*), 1099/2002 (*Marín v. Spain*), 1110/2002 (*Rolando v. The Philippines*), 1118/2002 (*Deperraz v. France*), 1188/2003 (*Riedl-Riedenstein et al. v. Germany*), 1210/2003 (*Damianos v. Cyprus*), 1357/2005 (*A.K. v. The Russian Federation*) and 1399/2005 (*Cuartero v. Spain*).

(f) Claims which constitute an abuse of the right to submit communications or which are incompatible with the provisions of the Covenant (Optional Protocol, art. 3)

127. Communications must raise an issue concerning the application of the Covenant. Despite previous attempts to explain that the Committee cannot function under the Optional Protocol as an appellate body where the issue is one of domestic law, some communications continue to be based on such a misapprehension; such cases, as well as those where the facts presented do not raise issues under the articles of the Covenant invoked by the author, are declared inadmissible under article 3 of the Optional Protocol as incompatible with the provisions of the Covenant.

128. In case No. 958/2000 (*Jazairi v. Canada*), where the author had raised a claim under article 50 of the Covenant, the Committee recalled that a substantive violation of the Covenant by a provincial authority engaged the State party's international responsibility to the same degree as an act of its federal authorities. The Committee referred, however, to its constant jurisprudence that it is only with respect to articles in Part III of the Covenant, interpreted as appropriate in the light of the other provisions of the Covenant, that an individual communication may be presented to it. Accordingly, article 50 by itself could not give rise to a

free-standing claim that was independent of a substantive violation of the Covenant. In the Committee's view, the claim under article 50 was subsumed by the author's arguments on the substantive Covenant articles and was by itself inadmissible for incompatibility with the provisions of the Covenant.

129. Claims were declared inadmissible on grounds of incompatibility with the Covenant also in case No. 954/2000 (*Minogue v. Australia*).

130. The notion of abuse of the right to submit communications came up in some cases. Thus, in case 1134/2002 (*Gorji-Dinka v. Cameroon*) the Committee noted that several years had passed between the occurrence of the events at the basis of the author's communication (early1980s), his attempts to avail himself of domestic remedies, and the time of submission of his case to the Committee. While such substantial delays might, in different circumstances, be characterized as an abuse of the right of submission within the meaning of article 3 of the Optional Protocol, unless a convincing explanation justifying this delay has been adduced, the Committee was mindful of the State party's failure to cooperate with it and to present to it its observations on the admissibility and merits of the case. In the circumstances, the Committee did not consider it necessary to address this issue further. Also, in case No. 1101/2002 (*Alba Cabriada v. Spain*) the Committee considered that the Optional Protocol did not establish any deadline for the submission of communications, and that the period of time elapsing before doing so, other than in exceptional cases, did not of itself constituted an abuse of the right to submit a communication.

131. In case No. 958/2000 (*Jazairi v. Canada*) the author had raised one of his claims at a late stage and which did not form part of the arguments on which the State party was requested to comment with respect to admissibility and merits. The Committee considered that the author had not demonstrated why this claim could not have been raised at an earlier stage of the pleadings and was of the view that it would be an abuse of process for it to be addressed.

(g) Inadmissibility *ratione materiae* (Optional Protocol, art. 3)

132. In case No. 1182/2003 (*Karatsis v. Cyprus*), concerning the revocation of an appointment within the judiciary, the Committee considered that the Supreme Court did not violate the guarantees of article 14, paragraph 1, when it declared itself incompetent to deal with the author's case, given that Cypriot law explicitly excluded the Court's jurisdiction to adjudicate the matter. The initiation of proceedings before a judicial body that manifestly lacked jurisdiction to deal with a matter could not trigger the guarantees of article 14, paragraph 1. The Committee therefore concluded that this part of the communication was inadmissible *ratione materiae* under article 3 of the Optional Protocol.

133. Case No. 1333/2004 (*Calvet v. Spain*), concerned the alleged violation of article 11 of the Covenant by the imposition of a custodial sentence for failure to pay maintenance. The Committee noted that the case concerned the failure to meet not a contractual obligation but a legal obligation. The obligation to pay maintenance derived from the law and not from the separation or divorce agreement signed by the author and his ex-wife. Consequently, the Committee found the communication incompatible *ratione materiae* with article 11 and thus inadmissible under article 3 of the Optional Protocol.

134. In case No. 1192/2003 (*Guillén v. Spain*) regarding the alleged absence of an effective remedy, the Committee recalled that article 2 of the Covenant can only be invoked in conjunction with a substantive Covenant right. It noted that the author invoked article 2, paragraph 3, in conjunction with article 26 of the Covenant. However, his claim under article 26 being inadmissible because of the failure of the author to establish its applicability, it followed that his claim under article 26, read in conjunction with article 2, paragraph 3, was inadmissible *ratione materiae* under article 3 of the Optional Protocol.

(h) Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))

135. Pursuant to article 5, paragraph 2 (a), of the Optional Protocol, the Committee shall ascertain that the same matter is not being examined under another procedure of international investigation or settlement. Upon becoming parties to the Optional Protocol, some States have made a reservation to preclude the Committee's competence if the same matter has already been examined under another procedure.

136. In case No. 944/2000 (*Mahabir v. Austria*) the author's application under the European Convention on Human Rights was submitted on the same day as his communication under the Optional Protocol. The Committee decided that the European Court on Human Rights was able to examine "the same matter" only insofar as the substantive rights protected under the European Convention converged with those protected under the Covenant, and to the extent that the events complained of occurred prior to the date when the author filed his application with the European Court.

137. In case No. 1155/2003 (*Leirvåg et al. v. Norway*) a group of parents claimed that their rights under article 18, paragraph 4, of the Covenant had been violated. The State party contested the admissibility on the ground that the "same matter" was being examined by the European Court, as three other sets of parents had lodged a similar complaint with the Court and that, before the Norwegian courts, the authors' claims were adjudicated in a single case, along with identical claims from these three other sets of parents. The Committee reiterated its jurisprudence that the words "the same matter" within the meaning of article 5, paragraph 2 (a), of the Optional Protocol had to be understood as referring to one and the same claim concerning the same individual, as submitted by that individual, or by some other person empowered to act on his behalf, to the other international body. That the authors' claims were joined with the claims of another set of individuals before the domestic courts did not obviate or change the interpretation of the Optional Protocol. The authors had demonstrated that they were individuals distinct from the three sets of parents who filed a complaint with the European Court, and had chosen not to submit their cases to the Court. The Committee, therefore, considered that it was not precluded under article 5, paragraph 2 (a), of the Optional Protocol from considering the communication.

138. Claims were also declared inadmissible because of submission to another procedure of international investigation or settlement, as in case No. 860/1999 (*Álvarez Fernández v. Spain*).

(i) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

139. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective.

140. In case No. 918/2000 (*Vedeneyeva v. The Russian Federation*) the Committee considered that, whilst the author of a communication did not bear the sole burden of proof for a contention that a particular domestic remedy was ineffective, he or she had to at least present a prima facie argument in support of such a proposition and substantiate his or her reasons for believing that the remedy in question was ineffective. Since in this particular case the author had not done this, the Committee decided that the communication was inadmissible under article 5, paragraph 2 (b), of the Optional Protocol.

141. In case No. 1188/2003 (*Riedl-Riedenstein et al. v. Germany*) the Committee recalled that, in addition to ordinary judicial and administrative appeals, authors also had to avail themselves of all other judicial remedies, including constitutional complaints, insofar as such remedies appeared to be effective in the given case and were de facto available to the author. The Committee considered that the authors had not shown that addressing the alleged discriminatory application of a more stringent standard of proof to their claims before the Federal Constitutional Court would have been a futile remedy merely because the lower courts had consistently applied such a standard of proof to their case.

142. In case No. 1235/2003 (*Celal v. Greece*) the author claimed that his son's death as a result of a police shooting was an arbitrary deprivation of life contrary to article 6, paragraph 1, of the Covenant, as the use of force was unjustified and/or excessive. The Committee referred to its jurisprudence that in situations where a State party circumscribed rights of appeal with certain procedural requirements, an author was required to comply with such requirements before he or she could be said to have exhausted domestic remedies. In the case under consideration the author neither appointed a process agent in the court's district prior to the Misdemeanours Court's resolution of the case, nor appeared before the Appeals Court to make submissions on the absence of an agent and on the case as a whole. As a result, both the Appeals Court and the Court of Cassation were deprived of the ability to consider the merits of the appeal. Accordingly, the Committee declared the communication inadmissible under article 5, paragraph 2 (b), of the Optional Protocol.

143. Other claims declared inadmissible for failure to exhaust available and/or effective remedies during the period under review include cases Nos. 860/1999 (*Álvarez Fernández v. Spain*), 939/2000 (*Dupuy v. Canada*), 944/2000 (*Mahabir v. Austria*), 971/2001 (*Arutyuniantz v. Uzbekistan*), 1037/2001 (*Bator v. Poland*), 1118/2002 (*Deperraz v. France*), 1127/2002 (*Karawa v. Australia*), 1128/2002 (*Marques de Morais v. Angola*), 1189/2003 (*Fernando v. Sri Lanka*), 1220/2003 (*Hoffman and Simpson v. Canada*), 1326/2004 (*Mazón and Morote v. Spain*), 1356/2005 (*Parra v. Spain*) and 1389/2005 (*Bertelli v. Spain*).

(j) Burden of proof

144. Under the Optional Protocol, the Committee bases its Views on all written information made available by the parties. This implies that if a State party does not provide an answer to an author's allegations, the Committee will give due weight to the uncontested allegations as long as they are substantiated. In the period under review, the Committee recalled this principle in its Views on cases Nos. 912/2000 (*Deolall v. Guyana*), 973/2001 (*Khalilova v. Tajikistan*), 1110/2002 (*Rolando v. The Philippines*), 1128/2002 (*Marques de Morais v. Angola*) and 1134/2002 (*Gorji-Dinka v. Cameroon*).

145. In case No. 971/2001 (*Arutyuniantz v. Uzbekistan*), concerning the proceedings leading to the conviction of the author's son, the Committee recalled that it is implicit in article 4, paragraph 2, of the Optional Protocol that a State party should examine in good faith all allegations brought against it, and should provide the Committee with all relevant information at its disposal. The Committee did not consider that a general statement about the adequacy of the criminal proceedings in question met this obligation. In such circumstances, due weight had to be given to the author's allegations, to the extent that they had been substantiated.

(k) Interim measures under rule 92 (old rule 86) of the Committee's rule of procedure

146. Under rule 92 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on suitable occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected under the Covenant. For the Committee's reasoning on whether or not to issue a request under rule 92, see the Committee's Views in communication No. 558/1993 (*Canepa v. Canada*).[4]

147. In case No. 1023/2001 (*Länsman III v. Finland*), decided during the eighty-third session, the Committee had requested the State party to refrain from conducting logging activities that would affect the exercise by the authors of reindeer husbandry while their case was under consideration by the Committee.

148. In case No. 1189/2003 (*Fernando v. Sri Lanka*), decided during the eighty-third session, the Committee requested the State party to adopt all necessary measures to protect the life, safety and personal integrity of the author and his family and to inform the Committee of the measures taken within 30 days. That request was made following information received from the author stating that he had received death threats from an unknown person who urged him to withdraw his complaints before, inter alia, the Human Rights Committee. The State party informed the Committee about the measures taken in response to its request.

(l) Breach of Optional Protocol obligations

149. When States parties have disregarded the Committee's decisions under rule 92, the Committee may find that the State party has violated its obligations under the Optional Protocol.

150. In case No. 973/2001 (*Khalilova v. Tajikistan*), the Committee noted that the State party had executed the author's son despite the fact that a request for interim measures of protection had been addressed to the State party in this respect. The Committee recalled that, apart from any violation of the Covenant found in a communication, a State party committed grave breaches of its obligations under the Optional Protocol if it acted to prevent or frustrate consideration by the Committee of a communication alleging a violation of the Covenant, or to render examination by the Committee moot and the expression of its Views nugatory and futile. In the present communication, the State party breached its obligations under the Optional Protocol by executing the alleged victim before the Committee had concluded its consideration and examination and the formulation and communication of its Views. It was particularly inexcusable for the State to have done so after the Committee had acted under rule 92 of its rules of procedure requesting it to refrain from doing so. The Committee also expressed great concern about the lack of an explanation by the State party for its action, in spite of several requests made by the Committee in this respect. The Committee further recalled that interim measures pursuant to rule 92, adopted in conformity with article 39 of the Covenant, were essential to the Committee's role under the Optional Protocol. Flouting of the rule, especially by irreversible measures such as, as in the present case, the execution of the author's son, undermined the protection of Covenant rights through the Optional Protocol.

2. Substantive issues

(a) The right to life (Covenant, art. 6)

151. Article 6 (1) protects every human being's inherent right to life. This right shall be protected by law and no one shall be arbitrarily deprived of his life.

152. In cases Nos. 912/2000 (*Deolall v. Guyana*) and 973/2001 (*Khalilova v. Tajikistan*) the Committee recalled its jurisprudence that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant had not been respected constituted, if no further appeal against the sentence was possible, a violation of article 6 of the Covenant. In the cases in question, since the final sentence of death was passed without having observed the requirements for a fair trial set out in article 14, the Committee concluded that article 6 had been violated.

153. In case No. 1110/2002 (*Rolando v. The Philippines*), where the author had been convicted of statutory rape and sentenced to death, the Committee recalled its jurisprudence that the automatic and mandatory imposition of the death penalty constituted an arbitrary deprivation of life, in violation of article 6, paragraph 1, in circumstances where the death penalty was imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence. The Committee also noted that rape, under the law of the State party, was a broad notion and covered crimes of different degrees of seriousness. It followed that the automatic imposition of the death penalty in the author's case violated his rights under article 6, paragraph 1.

(b) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)

154. In case No. 1110/2002 (*Rolando v. The Philippines*), the Committee examined the author's claims of violations under articles 7 and 10, paragraph 1, on account of the fact that he would not be notified of the date of his execution until dawn of the day in question, whereupon he would be executed within eight hours and would have insufficient time to bid farewell to family members and organize his personal affairs. The Committee understood from the State party's legislation that the author would have at least 1 year and at most 18 months after the exhaustion of all available remedies, during which he could make arrangements to see members of his family prior to notification of the date of execution. It also noted that, according to domestic law, following notification of execution he would have approximately eight hours to finalize any personal matters and meet with members of his family. The Committee reiterated its jurisprudence that the issue of a warrant for execution necessarily caused intense anguish to the individual concerned and was of the view that the State party should attempt to minimize this anguish as far as possible. However, on the basis of the information provided, the Committee could not find that the setting of the time of the execution of the author within eight hours after notification, considering that he would already have had at least one year following the exhaustion of domestic remedies and prior to notification to organize his personal affairs and meet with family members, would violate his rights under articles 7, and 10, paragraph 1.

155. In case No. 1222/2003 (*Byahuranga v. Denmark*), concerning a Ugandan national awaiting expulsion to Uganda, the Committee considered whether such expulsion would expose him to a real and foreseeable risk of being subjected to treatment contrary to article 7. The Committee recalled that, under article 7 of the Covenant, States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement. It noted, firstly, that the Danish Immigration Service's scrutiny under the Aliens Act was limited to an assessment of the author's personal circumstances in Denmark, as well as his risk of being subjected to punishment for the same offence for which he had been convicted in Denmark, without addressing the broader issues under article 7 of the Covenant. Secondly, the Immigration Service merely relied on an assessment made by the Ministry for Foreign Affairs concerning the risk of double jeopardy in Uganda and an amnesty for supporters of former President Amin to conclude that the author would not face a risk of being tortured or ill-treated upon return to Uganda. Similarly, the Refugee Board dismissed the author's appeal on the basis of the same opinion by the Ministry, without providing any substantive reasons of its own. In particular, the Board merely dismissed, because of late submission, the author's claim that his political activities in Denmark were known to the Ugandan authorities, thereby placing him at a particular risk of being subjected to ill-treatment upon return to Uganda. The State party had not furnished the Committee with the opinion of its Ministry for Foreign Affairs or with other documents that would make out the factual basis for the Ministry's assessment. In the light of the State party's failure to provide substantive arguments upon which the State party relied to rebut the author's allegations, the Committee found that due weight had to be given to his detailed account of the existence of a risk of treatment contrary to article 7. Consequently, the Committee was of the view that the expulsion order against the author would, if implemented, constitute a violation of article 7 of the Covenant.

156. In case No. 973/2001 (*Khalilova v. Tajikistan*) the Committee noted the author's claim that the Tajik authorities, including the Supreme Court, had consistently ignored her requests for information and systematically refused to reveal any detail about her son's situation or whereabouts. The Committee understood the continued anguish and mental stress caused to the author, as the mother of a condemned prisoner, by the persisting uncertainty of the circumstances that led to his execution, as well as the location of his gravesite. The secrecy surrounding the date of execution and the place of burial had the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress. The Committee considered that the authorities' initial failure to notify the author of the execution of her son amounted to inhuman treatment of the author, in violation of article 7 of the Covenant.

157. In case No. 1089/2002 (*Rouse v. The Philippines*), the Committee recalled that States parties are under an obligation to observe certain minimum standards of detention, which includes provision of medical care and treatment for sick prisoners, in accordance with rule 22 (2) of the Standard Minimum Rules for the Treatment of Prisoners. It was apparent from the author's uncontested account that he suffered from severe pain due to aggravated kidney problems, and that he was not able to obtain proper medical treatment from the prison authorities. As the author suffered such pain for a considerable amount of time - from 2001 up to his release in September 2003 - the Committee found that he was the victim of cruel and inhuman treatment in violation of article 7.

(c) Liberty and security of person (Covenant, art. 9, para. 1)

158. Article 9, paragraph 1, of the Covenant guarantees both the right of every person to liberty, i.e. not to be subjected to arbitrary arrest or detention, and the right to one's personal security.

159. In case No. 1128/2002 (*Marques de Morais v. Angola*) the Committee examined whether the author's arrest and subsequent detention were arbitrary. The Committee recalled its jurisprudence, according to which the notion of "arbitrariness" was not to be equated with "against the law", but had to be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law. This meant that remand in custody had to be not only lawful but reasonable and necessary in all the circumstances, for example to prevent flight, interference with evidence or the recurrence of crime. No such element had been invoked in the instant case. Irrespective of the applicable rules of criminal procedure, the Committee observed that the author was arrested on, albeit undisclosed, charges of defamation which, although qualifying as a crime under Angolan law, did not justify his arrest at gunpoint by 20 armed policemen, nor the length of his detention of 40 days, including 10 days of incommunicado detention. The Committee concluded that, in the circumstances, the author's arrest and detention were neither reasonable nor necessary but were, at least in part, of a punitive character and thus arbitrary, in violation of article 9, paragraph 1. The Committee reached a similar conclusion in case No. 1134/2002 (*Gorji-Dinka v. Cameroon*), where it also recalled that article 9, paragraph 1, applied to all forms of deprivation of liberty, including house arrest.

160. In case No.1189/2003 (*Fernando v. Sri Lanka*) the Committee examined whether the author's conviction and sentence to one year of imprisonment for contempt of court amounted to arbitrary detention, in violation of article 9 of the Covenant. It noted that courts, notably in common law jurisdictions, had traditionally enjoyed authority to maintain order and dignity in

court proceedings by the exercise of a summary power to impose penalties for "contempt of court". However, in the case under consideration, the only disruption indicated by the State party was the repetitious filing of motions by the author, for which an imposition of financial penalties would have evidently been sufficient, and one instance of "rais[ing] his voice" in the presence of the court and refusing thereafter to apologize. The penalty imposed was a one-year term of "rigorous imprisonment". No reasoned explanation had been provided by the court or the State party as to why such a severe and summary penalty was warranted, in the exercise of a court's power to maintain orderly proceedings. Article 9, paragraph 1, of the Covenant prohibited any "arbitrary" deprivation of liberty. The imposition of a severe penalty without adequate explanation and without independent procedural safeguards fell within that prohibition. The fact that an act constituting a violation of article 9, paragraph 1, was committed by the judicial branch of Government could not prevent the engagement of the responsibility of the State party as a whole. The Committee concluded that the author's detention was arbitrary, in violation of article 9, paragraph 1.

161. In case No. 1061/2002 (*Fijalkowska v. Poland*), the Committee considered whether the State party had violated article 9 of the Covenant by committing the author to a psychiatric institution. The Committee noted its prior jurisprudence that treatment in a psychiatric institution against the will of the patient constitutes a form of deprivation of liberty that falls under the terms of article 9 of the Covenant. It also noted that it was carried out in accordance with the relevant articles of the Mental Health Protection Act and was, thus, lawful. Concerning the possible arbitrary nature of the author's committal, the Committee found it difficult to reconcile the State party's view that although the author was recognized, in accordance with the Act, to suffer from deteriorating mental health and inability to provide for her basic needs, she was at the same time considered to be legally capable of acting on her own behalf. As to the State party's argument that mental illness cannot be equated to a lack of legal capacity, the Committee held that confinement of an individual to a psychiatric institution amounted to an acknowledgement of that individual's diminished capacity, legal and otherwise. The Committee considered that the State party had a particular obligation to protect vulnerable persons within its jurisdiction, including the mentally impaired. As the author suffered from diminished capacity that might have affected her ability to take part effectively in the proceedings herself, the court should have been in a position to ensure that she was assisted or represented in a way sufficient to safeguard her rights throughout the proceedings. The Committee also considered that the author's sister was not in a position to provide such assistance or representation, as she had herself requested the committal order in the first place. Circumstances may arise in which an individual's mental health is so impaired that so as to avoid harm to the individual or others, the issuance of a committal order, without assistance or representation sufficient to safeguard her rights, may be unavoidable. In the present case, however, no such special circumstances had been advanced. For these reasons, the Committee found that the author's committal was arbitrary under article 9, paragraph 1, of the Covenant.

(d) Right to be informed of the reasons for one's arrest (Covenant, art. 9, para. 2)

162. In case No. 1128/2002 (*Marques de Morais v. Angola*) the Committee noted the author's uncontested claim that he was not informed of the reasons for his arrest and that he was charged only 40 days after the arrest. The Committee concluded that these facts amounted to a violation of article 9, paragraph 2.

(e) Right to be brought promptly before a judge (Covenant, art. 9, para. 3)

163. Also in case No. 1128/2002 (*Marques de Morais v. Angola*) the Committee recalled that the right to be brought "promptly" before a judicial authority implied that delays could not exceed a few days. Furthermore, the Committee took note of the author's argument that his 10-day incommunicado detention, without possibility of access to a lawyer, adversely affected his right to be brought before a judge, in violation of article 9, paragraph 3.

(f) Right to bring proceedings before a court, in order that that court may decide without delay on the lawfulness of the detention and order release if the detention is not lawful (Covenant, art. 9, para. 4)

164. In case No. 1128/2002 (*Marques de Morais v. Angola*) the Committee noted that the author had no access to counsel during his incommunicado detention, which prevented him from challenging the lawfulness of his detention during that period. Even though his lawyer subsequently applied for habeas corpus to the Supreme Court, this application was never adjudicated. In the absence of any information from the State party, the Committee found that the author's right to judicial review of the lawfulness of his detention had been violated.

165. In case No. 1061/2002 (*Fijalkowska v. Poland*), concerning the committal of the author to a psychiatric institution, the Committee noted that although a committal order may be appealed to a court, thereby allowing the individual to challenge the order, in this case, the author, who had not even been served with a copy of the order, nor been assisted or represented by anyone who could have informed her of such a possibility, had to wait until after her release before becoming aware of the possibility of, and actually pursuing, such an appeal. Her appeal was ultimately dismissed as having been filed outside the statutory deadline. In the Committee's view, the author's right to challenge her detention was rendered ineffective by the State party's failure to serve the committal order on her prior to the deadline to lodge an appeal. Therefore, in the circumstances of the case, the Committee found a violation of article 9, paragraph 4, of the Covenant.

(g) Treatment during imprisonment (Covenant, art. 10)

166. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. In case No. 1134/2002 (*Gorji-Dinka v. Cameroon*) the Committee took note of the author's uncontested allegation that he was kept in a wet and dirty cell without a bed, table or any sanitary facilities. It reiterated that persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that they must be treated in accordance with, inter alia, the Standard Minimum Rules for the Treatment of Prisoners. In the absence of information from the State party on the conditions of the author's detention, the Committee concluded that the author's rights under article 10, paragraph 1, had been violated.

167. In case 954/2000 (*Minogue v. Australia*) the Committee reviewed the author's claims under article 10, paragraph 1, of the Covenant against the background of the provisions of the Standard Minimum Rules for the Treatment of Prisoners. Taking note of the State party's submissions relating to the author's conditions of detention, including confirmation of his access

to legal documents and lawyers and the availability of various remedial mechanisms on the domestic level, the Committee considered that the author had not substantiated, for purposes of admissibility, a claim that these provisions had been violated.

(h) Right to leave any country (Covenant, art. 12, para. 2)

168. In case No. 1107/2002 (*El Ghar v. The Libyan Arab Jamahiriya*) the author, a Libyan citizen, claimed that the refusal by the Libyan Consulate in Casablanca to issue her with a passport prevented her from travelling and studying abroad and constituted a violation of the Covenant. The Committee recalled that a passport provided a national with the means "to leave any country, including his own", as stipulated in article 12, paragraph 2, of the Covenant, and that in the case of a national residing abroad, this provision imposed obligations both on the individual's State of residence and on the State of nationality, and could not be interpreted as limiting Libya's obligations under it to nationals living in its territory. The right recognized by article 12, paragraph 2, might, by virtue of paragraph 3 of that article, be subject to restrictions "which are provided by law [and] are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant". Thus, there were circumstances in which a State might, if the law so provided, refuse to issue a passport to one of its nationals. In the case under consideration, however, the State party had not put forward any such argument but had actually assured the Committee that it issued instructions to ensure that the author's passport application was successful, a statement that was not in fact followed up. The Committee concluded accordingly that the facts disclosed a violation of article 12, paragraph 2, of the Covenant insofar as the author was denied a passport without any valid justification and subjected to an unreasonable delay, and as a result was prevented from travelling abroad to continue her studies.

(i) Guarantees of a fair hearing (Covenant, art. 14, para. 1)

169. Article 14, paragraph 1, provides for the right to equality before the courts and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

170. In case No. 823/1998 (*Czernin v.The Czech Republic*) the author claimed to be a victim of a violation of article 14, paragraph 1, as the inaction of the authorities on his application for resumption of citizenship proceedings amounted to a failure to give him a fair hearing by a competent, independent and impartial tribunal established by law. The Committee considered that in the pursuit of a claim under domestic law, the individual had to have access to effective remedies, which implied that the administrative authorities had to act in conformity with the binding decisions of national courts. It noted that since the authors' application for resumption of proceedings in 1995, they had repeatedly been confronted with the frustration arising from the administrative authorities' refusal to implement the relevant decisions of the courts. The Committee considered that the inaction of the administrative authorities and the excessive delays in implementing the relevant courts' decisions were in violation of article 14, paragraph 1, in conjunction with article 2, paragraph 3, which provided for the right to an effective remedy. One Committee member appended an individual opinion to the Views.

171. In case No. 1182/2003 (*Karatsis v. Cyprus*), concerning the revocation of an appointment within the judiciary, the Committee recalled that the concept of "suit at law" under article 14, paragraph 1, is based on the nature of the rights in question rather than the status of one of the parties. It also recalled that the procedure of appointing judges, albeit subject to the right in article 25 (c) to access to public service on general terms of equality, as well as the right in article 2, paragraph 3, to an effective remedy, did not as such come within the purview of a determination of rights and obligations in a suit at law within the meaning of article 14, paragraph 1.

172. In case No. 1089/2002 (*Rouse v. The Philippines*), the author complained of not having received a fair trial. The Committee recalled its jurisprudence that it is generally for the courts of States parties to the Covenant to evaluate facts and evidence in a particular case, unless it can be ascertained that the evaluation was clearly arbitrary or amounted to a denial of justice. In this case, the Committee noted that the judge convicted the author, inter alia, on evidence that the accounts of the alleged victim, although given out of court, were not simple hearsay. In addition, the judge did not admit the affidavit of desistance of the alleged victim as evidence while she admitted his first statement, although both were equally confirmed by the same witnesses. Finally, the author had to overcome doubtful evidence, and even evidence that was not presented in court (the youthful looks of the 21-year-old witness, as well as the minor age of the alleged victim). In the circumstances, the Committee found that the court's choice of admissible evidence, in particular in the absence of any evidence confirmed by the alleged victim, as well as its evaluation thereof, were clearly arbitrary, in violation of article 14, paragraph 1, of the Covenant.

(j) Right to be presumed innocent (Covenant, art. 14, para. 2)

173. Article 14 (2) provides that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

174. In case No. 971/2001 (*Arutyuniantz v. Uzbekistan*), concerning the proceedings leading to the conviction of the author's son, the Committee recalled its general comment No. 13, which reiterates that by reason of the principle of presumption of innocence, the burden of proof for any criminal charge is on the prosecution, and the accused must have the benefit of the doubt. His guilt cannot be presumed until the charge has been proved beyond reasonable doubt. From the information before the Committee, which had not been challenged in substance by the State party, it transpired that the charges and the evidence against the author's son left room for considerable doubt. Incriminating evidence against a person provided by an accomplice charged with the same crime should, in the Committee's opinion, be treated with caution, particularly in circumstances where the accomplice had changed his account of the facts on several occasions. There was no information before the Committee that, despite their having being raised by the author's son, the trial court or the Supreme Court had taken these matters into account. In the absence of any explanation from the State party, the above concerns raised considerable doubt as to the author's son's guilt in relation to the murders for which he was convicted. In the circumstances, the Committee concluded that the author's son's trial did not respect the principle of presumption of innocence, in violation of article 14, paragraph 2, of the Covenant.

175. In case No. 973/2001 (*Khalilova v. Tajikistan*) the author contended that her son was forced to admit guilt, on at least two occasions during the investigation, on national television. The Committee recalled its general comment No. 13 and its jurisprudence that it is a duty for all public authorities to refrain from prejudging the outcome of a trial. It concluded accordingly that the investigating authorities failed to comply with their obligations under article 14, paragraph 2.

(k) Right to be tried without undue delay (Covenant, art. 14, para. 3 (c))

176. In case No. 1089/2002 (*Rouse v.The Philippines*), the Committee noted that the Supreme Court had delivered its judgement against the author over 41 months after the appeal was lodged and that altogether, there was a delay of 6½ years between the author's arrest and the judgement of the Supreme Court. On the strength of the material before the Committee, these delays could not be attributed to the author's appeals. In the absence of any pertinent explanation from the State party, the Committee concluded that there had been a violation of article 14, paragraph 3 (c).

(l) Right to examine witnesses or have witnesses examined (Covenant, art. 14, para. 3 (e))

177. In case No. 1089/2002 (*Rouse v. The Philippines*), the author claimed that he had been deprived of his right to cross-examine a crucial prosecution witness at the trial at which he was convicted. The Committee noted the State party's contention that he was afforded and took advantage of the possibility to cross-examine the public officers who had also filed a complaint against the author. However, the Committee noted that although a subpoena order had been issued to bring the alleged victim to testify in court, neither the alleged victim nor his parents could allegedly be located. Considering that the author was unable to cross-examine the alleged victim, although he was the sole eyewitness to the alleged crime, the Committee concluded that the author was the victim of a violation of article 14, paragraph 3 (e).

(m) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))

178. In case No. 912/2000 (*Deolall v. Guyana*) the Committee examined the author's claim that her husband was forced to sign a confession after being beaten by police officers, and that this confession was the only basis on which he was convicted. The Committee referred to its previous jurisprudence that the wording of article 14, paragraph 3 (g), must be understood in terms of the absence of any direct or indirect physical or psychological coercion from the investigating authorities on the accused with a view to obtaining a confession of guilt, and that it was implicit in this principle that the prosecution prove that the confession was made without duress. The Committee noted that the testimony of three doctors at the trial that Mr. Deolall had displayed injuries, as well as Mr. Deolall's own statement, would prima facie support the allegation that such ill-treatment had indeed occurred during the police interrogations prior to his signing of the confession statement. In its instructions to the jurors, the court clearly stated that if the jurors found that Mr. Deolall had been beaten by the police prior to giving his confession, even though it was a slight beating, they could not attach any weight to that statement and would need to acquit the defendant. However, the court did not instruct the jurors that they would need to be convinced that the prosecution had managed to prove that the confession was voluntary. The Committee maintained its position that it is generally not in the position to evaluate facts and evidence presented before a domestic court. In the current case, however, it took the view

that the instructions to the jury raised an issue under article 14 of the Covenant, as the defendant had managed to present prima facie evidence of being mistreated, and the court did not alert the jury that the prosecution had to prove that the confession was made without duress. This error constituted a violation of Mr. Deolall's right to a fair trial as well as his right not to be compelled to testify against himself or confess guilt, which violations were not remedied upon appeal. Therefore, the Committee concluded that the State party had violated article 14, paragraphs 1 and 3 (g), of the Covenant.

(n) Right to appeal (Covenant, art. 14, para. 5)

179. Article 14, paragraph 5, provides that everyone convicted of a crime shall have the right to have his/her conviction and sentence reviewed by a higher tribunal according to law.

180. In cases Nos. 1101/2002 (*Alba Cabriada v. Spain*) and 1104/2002 (*Martínez Fernández v. Spain*) the Committee noted the comments made by the State party about the extent and nature of the Spanish remedy of judicial review, in particular that the court of second instance was limited to an examination as to whether the findings of the trial court amounted to arbitrariness or denial of justice. As the Committee had determined in previous cases, such limited review by a higher tribunal did not meet the requirements of article 14, paragraph 5. The Committee concluded accordingly that the authors were victims of violations of article 14, paragraph 5, of the Covenant.

181. In case No. 1073/2002 (*Terrón v. Spain*) the author, a member of the Regional Assembly of Castilla-La Mancha, claimed that his right to a review of his conviction and sentence by a higher tribunal was violated since he was tried by the highest ordinary criminal court, the Supreme Court, whose judgements are not subject to judicial review. The Committee pointed out that "according to law" is not intended to mean that the very existence of a right to review is left to the discretion of States parties. Although the State party's legislation provided in certain circumstances for the trial of an individual, because of his position, by a higher court than would normally be the case, this circumstance alone could not impair the defendant's right to review of his conviction and sentence by a court. The Committee accordingly concluded that there had been a violation of article 14, paragraph 5, of the Covenant.

182. In case 1399/2005 (*Cuartero v. Spain*), the author, who had been convicted of sexual aggression, claimed that the Supreme Court had not carried out a proper re-evaluation of the evidence in his case. In the Committee's view, it transpired from the text of its judgement that the Supreme Court had dealt extensively with the assessment of the evidence by the court of first instance. In this regard, the Supreme Court considered that the elements of proof presented against the author were sufficient to outweigh the presumption of innocence, according to the test established by jurisprudence to ascertain the existence of sufficient evidence for the prosecution in certain types of crimes, including sexual aggression. The Committee therefore found that the author's claim was insufficiently substantiated for purposes of admissibility and declared it inadmissible under article 2 of the Optional Protocol.

183. In case 1095/2002 (*Gomariz v. Spain*), the author claimed a violation of article 14, paragraph 5, of the Covenant, on the grounds that he was initially convicted at second instance by the appeal court, and was denied the right to request a review of that conviction by a higher court. The Committee held that article 14, paragraph 5, not only guarantees that the judgement will be placed before a higher court, as happened in the author's case, but also that the conviction

will undergo a second review, which was not the case for the author. Although a person acquitted at first instance may be convicted on appeal by the higher court, this circumstance alone cannot impair the defendant's right to a review of his conviction and sentence by a higher court. The Committee accordingly concluded that there had been a violation of article 14, paragraph 5, of the Covenant.

184. In case 1110/2002 (*Rolando v. The Philippines*) the Committee recalled its jurisprudence that a "factual retrial" or "hearing de novo" was not necessary for the purposes of article 14, paragraph 5.

185. In case No. 973/2001 (*Khalilova v. Tajikistan*) the author claimed that her son's right to have his death sentence reviewed by a higher tribunal according to law had been violated. From the documents before the Committee, it transpired that the author's son was sentenced to death at first instance by the Supreme Court. The judgement mentioned that it was final and not subject to any further cassation appeal. The Committee recalled that even if a system of appeal is not automatic, the right to appeal under article 14, paragraph 5, imposed on the State party a duty substantially to review, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence. In the absence of any pertinent explanation from the State party, the Committee considered that the absence of a possibility to appeal to a higher judicial instance judgements of the Supreme Court handed down at first instance fell short of the requirements of article 14, paragraph 5.

186. In case No. 975/2001 (*Ratiani v. Georgia*), the author claimed that he was unable to appeal his conviction by the Supreme Court. He stated that he had complained about his conviction to the Office of the Public Defender, who prepared a recommendation to the Presidium of the Supreme Court. As a result, the latter reviewed the case and revised the sentence. The Committee noted that the State party did not refer to this process as being equivalent to a right of appeal; rather, it was referred to merely as a "supervisory complaint". In this respect, the Committee recalled its jurisprudence that a request for a "supervisory" review which amounted to a discretionary review, and which offered only the possibility of an extraordinary remedy, did not constitute a right to have one's conviction and sentence reviewed by a higher tribunal according to law. Secondly, the State party submitted that the author could apply to the Supreme Court for a review of his case, through the Prosecutor General, if he could identify new circumstances which called into question the correctness of the original decision. However, the Committee did not consider that such a process met the requirements of article 14, paragraph 5; the right of appeal entailed a full review by a higher tribunal of the *existing* conviction and sentence at first instance. The possibility of applying to a court to review a conviction on the basis of new evidence was by definition something other than a review of an existing conviction, as an existing conviction is based on evidence that existed at the time it was handed down. Similarly, the Committee considered that the possibility of applying for rehabilitation could not in principle be considered an appeal of an earlier conviction, for the purposes of article 14, paragraph 5. Accordingly, the Committee considered that the review mechanisms invoked in this case did not meet the requirements of article 14, paragraph 5, and that the State party violated the author's right to have his conviction and sentence reviewed by a higher tribunal according to law.

(o) Right not to be subjected to interference with one's privacy, family, home or correspondence (Covenant, art. 17)

187. In case No. 903/1999 (*van Hulst v. The Netherlands*) the Committee examined whether the interception and recording of the author's telephone calls with his lawyer constituted an unlawful or arbitrary interference with his privacy. The Committee recalled that, in order to be permissible under article 17, any interference with the right to privacy must cumulatively meet several conditions set out in paragraph 1, i.e. it must be provided for by law, be in accordance with the provisions, aims and objectives of the Covenant and be reasonable in the particular circumstances of the case. It also recalled that the relevant legislation authorizing interference with one's communications must specify in detail the precise circumstances in which such interference may be permitted, and that the decision to allow such interference can only be taken by the authority designated by law, on a case-by-case basis. It noted that the procedural and substantive requirements for the interception of telephone calls were clearly defined in the Code of Criminal Procedure of the Netherlands and in the Guidelines for the Examination of Telephone Conversations of 2 July 1984. Both required interceptions to be based on a written authorization by the investigating judge. The Committee concluded that the interference with the author's privacy in regard to his telephone conversations with his lawyer was proportionate and necessary to achieve the legitimate purpose of combating crime, and therefore reasonable in the particular circumstances of the case, and that there was accordingly no violation of article 17 of the Covenant.

(p) Right to family life (Covenant, arts. 17 and 23, para. 1)

188. In case No. 1222/2003 (*Byahuranga v. Denmark*) the author claimed that his expulsion to Uganda would constitute an arbitrary interference with his right to family life. The Committee considered that in cases where one part of a family must leave the territory of the State party while the other part would be entitled to remain, the relevant criteria for assessing whether the specific interference with family life can be objectively justified must be considered, on the one hand, in light of the significance of the State party's reasons for the removal of the person concerned and, on the other, the degree of hardship the family and its members would encounter as a consequence of such removal. It noted that the author had submitted the communication solely in his own right and not on behalf of his wife or children, and concluded that the Committee could only consider whether the author's rights under articles 17 and 23 would be violated as a result of his removal. The Committee also noted that the State party had sought to justify its interference with the author's family life by reference to the nature and severity of the author's offences, and considered that these reasons were reasonable and sufficient to justify the interference with the author's family life. The Committee therefore concluded that the author's expulsion, if implemented by returning him to Uganda, would not amount to a violation of his rights under articles 17 and 23, paragraph 1.

(q) Right to freedom of thought, conscience and religion (Covenant, art. 18)

189. In case No. 931/2000 (*Hudoyberganova v. Uzbekistan*) the Committee noted the author's claim that her right to freedom of thought, conscience and religion was violated as she was excluded from university because she refused to remove the headscarf that she wore in accordance with her beliefs. The Committee considered that the freedom to manifest one's religion encompassed the right to wear clothes or attire in public that was in conformity with the individual's faith or religion. Furthermore, it considered that to prevent a person from wearing

religious clothing in public or private might constitute a violation of article 18, paragraph 2, which prohibits any coercion that would impair the individual's freedom to have or adopt a religion. The Committee recalled, however, that the freedom to manifest one's religion or beliefs was not absolute and might be subject to limitations, which were prescribed by law and were necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others. In the case under consideration, the author's exclusion was based on the provisions of the Institute's new regulations. The State party had not invoked any specific ground for which the restriction imposed on the author would in its view be necessary in the meaning of article 18, paragraph 3. Instead, the State party sought to justify the expulsion of the author from university because of her refusal to comply with the ban. Neither the author nor the State party had specified what precise kind of attire the author wore and which was referred to as "hijab" by both parties. In the particular circumstances of the case, and without either prejudging the right of a State party to limit expressions of religion and belief in the context of article 18 of the Covenant, or prejudging the right of academic institutions to adopt specific regulations relating to their own functioning, the Committee was led to conclude, in the absence of any justification provided by the State party, that there had been a violation of article 18, paragraph 2. Three Committee members appended individual opinions to the Committee's Views.

190. In case No. 1207/2003 *(Malakhovsky v. Belarus)*, the Committee considered whether the State party's refusal to register a religious association amounted to a violation of the Covenant. The Committee noted, inter alia, that the State party had not advanced any argument as to why it was necessary for the purposes of article 18, paragraph 3, for a religious association, in order to be registered, to have an approved legal address which not only met the standards required for the administrative seat of the association, but also those necessary for premises used for purposes of religious ceremonies, rituals and other group undertakings. Appropriate premises for such use could be obtained subsequent to registration. The Committee also noted that the argument of the State party that the authors' community sought to monopolize representation of Vishnuism in Belarus did not form part of the domestic proceedings. Also taking into account the consequences of refusal of registration, namely the impossibility of carrying out such activities as establishing educational institutions and inviting foreign religious dignitaries to visit the country, the Committee concluded that the refusal to register amounted to a limitation of the authors' right to manifest their religion under article 18, paragraph 1 that was disproportionate and so did not meet the requirements of article 18, paragraph 3. The authors' rights under article 18, paragraph 1, had therefore been violated.

(r) Liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions (Covenant, art. 18, para. 4)

191. In case No. 1155/2003 (*Leirvåg et al. v. Norway*) the main issue before the Committee was whether the mandatory religious teaching in Norwegian schools entitled "Christian Knowledge and Religious and Ethical Education" (CKREE), which provided a possibility of exemption only from limited segments of the teaching, violated the authors' right to freedom of thought, conscience and religion under article 18, and more specifically the right of parents to secure the religious and moral education of their children in conformity with their own convictions, pursuant to article 18, paragraph 4. The Committee considered that:

> "Even in the abstract, the present system of partial exemption imposes a considerable burden on persons in the position of the authors, insofar as it requires them to acquaint themselves with those aspects of the subject which are clearly of a religious nature, as well as with other aspects, with a view to determining which of the other aspects they may feel a need to seek - and justify - exemption from. Nor would it be implausible to expect that such persons would be deterred from exercising that right, insofar as a regime of partial exemption could create problems for children that are different from those that may be present in a total exemption scheme. Indeed, as the experience of the authors demonstrates, the system of exemptions does not currently protect the liberty of parents to ensure that the religious and moral education of their children is in conformity with their own convictions. In this respect, the Committee notes that the CKREE subject combines education on religious knowledge with practising a particular religious belief, e.g. learning by heart of prayers, singing religious hymns or attendance at religious services. While it is true that in these cases parents may claim exemption from these activities by ticking a box on a form, the CKREE scheme does not ensure that education of religious knowledge and religious practice are separated in a way that makes the exemption scheme practicable.
>
> In the Committee's view, the difficulties encountered by the authors, in particular the fact that Maria Jansen and Pia Suzanne Orning had to recite religious texts in the context of a Christmas celebration although they were enrolled in the exemption scheme, as well as the loyalty conflicts experienced by the children, amply illustrate these difficulties. Furthermore, the requirement to give reasons for exempting children from lessons focusing on imparting religious knowledge and the absence of clear indications as to what kind of reasons would be accepted create a further obstacle for parents who seek to ensure that their children are not exposed to certain religious ideas. In the Committee's view, the present framework of CKREE, including the current regime of exemptions, as it has been implemented in respect of the authors, constitutes a violation of article 18, paragraph 4, of the Covenant in their respect."

(s) Freedom of opinion and expression (Covenant, art. 19)

192. Article 19 provides for the right to freedom of opinion and expression. According to paragraph 3 of article 19, the right to freedom of expression may only be restricted as provided by law and when necessary for respect of the rights of reputations of others or for the protection of national security or public order (*ordre public*), or of public health or morals.

193. In case No. 1128/2002 (*Marques de Morais v. Angola*) the author was a journalist who had written several articles critical of the President of Angola. The Committee examined whether his arrest, detention and conviction, or his travel constraints, unlawfully restricted his right to freedom of expression. The Committee reiterated that the right to freedom of expression in article 19, paragraph 2, included the right of individuals to criticize or openly and publicly evaluate their Governments without fear of interference or punishment. It recalled its jurisprudence that any restriction on the right to freedom of expression had to cumulatively meet the following conditions set out in paragraph 3 of article 19: it had to be provided for by law, it had to serve one of the aims enumerated in article 19, paragraph 3 (a) and (b), and it had to be necessary to achieve one of these purposes. The Committee considered that even if it were assumed that the author's arrest and detention, or the restrictions on his travel, had a basis in Angolan law, and that these measures, as well as his conviction, pursued a legitimate aim, such

as protecting the President's rights and reputation or public order, it could not be said that the restrictions were necessary to achieve one of these aims. It observed that the requirement of necessity implied an element of proportionality, in the sense that the scope of the restriction imposed on freedom of expression had to be proportional to the value that the restriction served to protect. Given the paramount importance, in a democratic society, of the right to freedom of expression and of a free and uncensored press or other media, the severity of the sanctions imposed on the author could not be considered as a proportionate measure to protect public order or the honour and the reputation of the President, a public figure who, as such, was subject to criticism and opposition. In the circumstances, the Committee concluded that there had been a violation of article 19.

194. In case No. 968/2001 (*Jong-Cheol v. The Republic of Korea*), the author, a journalist, had been convicted and fined 1 million won under the Election for Public Office and Election Malpractice Prevention Act for having published an article on the results of opinion polls during the presidential election campaign. The Act in question prohibited publication of public opinion polls during the 23-day campaign period. The Committee considered whether such conviction violated article 19, paragraph 2, of the Covenant. It observed that any restriction of the freedom of expression pursuant to paragraph 3 of article 19 must cumulatively meet the following conditions: it must be provided for by law, it must address the aims enumerated in paragraph 3 of article 19, and it must be necessary to achieve the purpose. In the case in question the restrictions were provided for by law. As to whether the measures addressed one of the aims enumerated in paragraph 3, the Committee noted the State party's argument that the restriction was justified in terms of the protection of public order. The Committee considered that, to the extent that the restriction related to the rights of presidential candidates, this restriction may also fall within the terms of article 19, paragraph 3 (a) (necessary for the respect of the rights of others). The Committee noted that the underlying reasoning for such a restriction was based on the wish to provide the electorate with a limited period of reflection, during which they were insulated from considerations extraneous to the issues contested in the elections, and that similar restrictions could be found in many jurisdictions. The Committee also noted the recent historical specificities of the democratic political processes of the State party, including those invoked by the State party. Under such circumstances, a law restricting the publication of opinion polls for a limited period in advance of an election did not seem, ipso facto, to fall outside the aims contemplated in article 19, paragraph 3. As to the issue of proportionality, the Committee noted that, while a cut-off date of 23 days prior to the election was unusually long, it did not need to pronounce itself on the compatibility per se of the cut-off date with article 19, paragraph 3, since the author's initial act of publishing previously unreported opinion polls took place within seven days of the election. The author's conviction for such publication could not be considered excessive in the context of the conditions obtaining in the State party. The Committee also noted that the sanction applied to the author, albeit one of criminal law, could not be categorized as excessively harsh. It was not, therefore, in a position to conclude that the law, as applied to the author, was disproportionate to its aim. Accordingly, the Committee did not find a violation of article 19 of the Covenant in this regard.

(t) Freedom of association (Covenant, art. 22)

195. In case No. 1119/2002 (*Lee v. The Republic of Korea*), the author claimed that his conviction for membership in the Korean Federation of Student Councils (Hanchongnyeon) unreasonably restricted his freedom of association. The Committee considered whether such conviction was necessary for achieving one of the purposes set out in article 22, paragraph 2.

It noted that the State party had invoked the need to protect national security and its democratic order against the threat posed by the Democratic People's Republic of Korea. However, the State party had not specified the precise nature of the threat allegedly posed by the author's becoming a member of Hanchongnyeon. The Committee noted that the decision of the Supreme Court of the Republic of Korea, declaring this association an "enemy-benefiting group" in 1997, was based on article 7 of the National Security Law which prohibits support for associations which "may" endanger the existence and security of the State or its democratic order. It also noted that the State party and its courts had not shown that punishing the author for his membership in Hanchongnyeon was necessary to avert a real danger to the national security and democratic order of the Republic of Korea. The Committee therefore held that the State party had not shown that the author's conviction was necessary to protect national security or any other purpose set out in article 22, paragraph 2. It concluded that the restriction on the author's right to freedom of association was incompatible with the requirements of article 22, paragraph 2, and thus violated article 22, paragraph 1, of the Covenant.

(u) Right to acquire a nationality (Covenant, art. 24, para. 3)

196. In case No. 1134/2002 (*Gorji-Dinka v. Cameroon*), the author claimed that he had been denied his right to "Ambazonian" nationality, in violation of article 24, paragraph 3, of the Covenant. The Committee recalled that this provision protected the right of every *child* to acquire a nationality. Its purpose was to prevent a child from being afforded less protection by society and the State because he or she was stateless, rather than to afford an entitlement to a nationality of one's own choice. The claim was therefore declared inadmissible *ratione materiae* under article 3 of the Optional Protocol.

(v) Right to vote and to be elected (Covenant, art. 25 (b))

197. Also in case No. 1134/2002 (*Gorji-Dinka v. Cameroon*) the author claimed that the removal of his name from the voters' register violated his rights under article 25 (b) of the Covenant. The Committee observed that the exercise of the right to vote and to be elected may not be suspended or excluded except on grounds established by law that were objective and reasonable, and reiterated that persons who were deprived of liberty but who had not been convicted should not be excluded from exercising the right to vote. It also recalled that persons who were otherwise eligible to stand for election should not be excluded by reason of political affiliation. In the absence of any objective and reasonable grounds to justify the author's deprivation of his right to vote and to be elected, the Committee concluded that the author's rights under article 25 (b) of the Covenant had been violated.

(w) The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)

198. Article 26 of the Covenant guarantees equality before the law and prohibits discrimination.

199. In case No. 945/2000 (*Marik v. The Czech Republic*), the Committee had to decide whether the application to the author of Act 87/1991 amounted to a violation of his right to equality before the law and to equal protection of the law, contrary to article 26 of the Covenant. Under the Act, a person whose properties had been confiscated for political reasons could claim restitution provided, inter alia, that he/she was a Czech/Slovak citizen. The Committee recalled

its Views on previous cases where it held that the authors had left Czechoslovakia because of their political opinions and had sought refuge from political persecution in other countries, where they eventually established permanent residence and obtained a new nationality. Taking into account that the State party itself was responsible for the author's departure, it would be incompatible with the Covenant to require the author to obtain Czech citizenship as a prerequisite for the restitution of his property or, alternatively, for the payment of appropriate compensation. The citizenship requirement in these circumstances was unreasonable. The Committee therefore concluded that the facts before it disclosed a violation of article 26.

200. In case No. 988/2001 (*Gallego v. Spain*) the author claimed that the different criteria used in bilateral treaties on social security to which Spain was a party for the calculation of the pension of Spanish migrant workers amounted to a violation of article 26 of the Covenant. The Committee noted that the author had not shown how such different criteria were based on the race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status of those migrant workers. The mere fact that treaties on the same subject concluded between different countries at different times varied in content did not amount, as such, to a violation of article

(x) Rights of persons belonging to minorities to enjoy their own culture (Covenant, art. 27)

201. In case No. 1023/2001 (*Länsman III v. Finland*), the Committee examined the claims relating to the effects of logging in several areas of the territory administered by the Muotkatunturi Herdsmen's Committee. In the Committee's opinion, it was undisputed that the authors were members of a minority within the meaning of article 27 of the Covenant and as such had the right to enjoy their own culture. It was also undisputed that reindeer husbandry was an essential element of their culture and that economic activities might come within the ambit of article 27, if they were an essential element of the culture of an ethnic community.

202. In weighing the effects of logging, or indeed any other measures taken by a State party that has an impact on a minority's culture, the Committee noted that the infringement of a minority's right to enjoy its own culture, as provided for in article 27, might result from the combined effects of a series of actions or measures taken by a State party over a period of time and in more than one area of the State occupied by that minority. Thus, the Committee had to consider the overall effects of such measures on the ability of the minority concerned to continue to enjoy its culture. In the present case, and taking into account the specific elements brought to its attention, the Committee had to consider the effects of these measures not at one particular point in time - either immediately before or after the measures are carried out - but the effects of past, present and planned future logging on the authors' ability to enjoy their culture in community with other members of their group.

203. The authors and the State party disagreed on the effects of the logging in the areas in question, including the reasons behind the Minister's decision to reduce the number of reindeer kept per herd: while the authors attributed the reduction to the logging, the State party invoked the overall increase in reindeer threatening the sustainability of reindeer husbandry generally. Taking into consideration all the information submitted by the authors and the State party, the Committee concluded that the effects of logging carried out in the areas in question had not been shown to be serious enough as to amount to a denial of the authors' right to enjoy their own culture in community with other members of their group under article 27 of the Covenant.

204. In case No. 879/1999 (*Howard v. Canada*) the Committee considered whether Ontario's Fishing Regulations had deprived the author, in violation of article 27 of the Covenant, of the ability to exercise, individually and in community with other members of his group, his aboriginal fishing rights, which are an integral part of his culture. The Committee held that it was not in a position to draw independent conclusions on the factual circumstances in which the author could exercise his right to fish and their consequences for his enjoyment of the right to his own culture. While the Committee understood the author's concerns, especially bearing in mind the relatively small size of the reserves in which he lived and the limitations imposed on fishing outside the reserves, and without prejudice to any legal proceedings or negotiations between the Williams Treaties First Nations and the Government, the Committee was of the opinion that the information before it was not sufficient to justify the finding of a violation of article 27 of the Covenant.

F. Remedies called for under the Committee's Views

205. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to take appropriate steps to remedy the violation, such as commutation of sentence, release, or providing adequate compensation for the violation suffered. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views."

206. During the period under review the Committee took the following decisions regarding remedies.

207. In case No. 912/2000 (*Deolall v. Guyana*), the Committee found violations of articles 6 and 14, paragraphs 1 and 3 (g), and decided that the State party was under an obligation to provide the author with an effective remedy, including release or commutation of the death sentence.

208. In case No. 973/2001 (*Khalilova v. Tajikistan*), the Committee found violations of articles 6, paragraph 1, 7, 10, paragraph 1 and 14, paragraphs 2, 3 (g) and 5. The Committee concluded that the State party was under an obligation to provide the author with an effective remedy, including information on the location where the author's son was buried, and compensation for the anguish suffered.

209. In case No. 1110/2002 (*Rolando v. The Philippines*), the Committee found violations of articles 6, paragraph 1, 9, paragraphs 1, 2 and 3, and 14, paragraph 3 (d). The Committee concluded that the author was entitled to an appropriate remedy, including commutation of his death sentence.

210. In case No. 1222/2003 (*Byahuranga v. Denmark*), the Committee found that the author's expulsion to Uganda would, if implemented, violate his rights under article 7. It decided that the State party was under an obligation to provide the author with an effective remedy, including revocation and full re-examination of the expulsion order against him.

211. In case No. 1128/2002 (*Marques de Morais v. Angola*), the Committee found violations of articles 9, paragraphs 1, 2, 3 and 4, and of articles 12 and 19. It decided that the author was entitled to an effective remedy, including compensation.

212. In cases Nos. 1061/2002 (*Fijalkowska v. Poland*) and 1189/2003 (*Fernando v. Sri Lanka*), the Committee found violations of article 9. It decided that the State party was under an obligation to provide the authors with an adequate remedy, including compensation, and to make such legislative changes as were necessary to avoid similar violations in the future. A similar decision was taken in case No. 1119/2002 (*Lee v. The Republic of Korea*), where the Committee found a violation of article 22, paragraph 1.

213. In case No. 1134/2002 (*Gorji-Dinka v. Cameroon*), the Committee found violations of articles 9, paragraph 1, 10, paragraphs 1 and 2 (a), 12, paragraph 1, and 25 (b). It decided that the author was entitled to an effective remedy, including compensation, and assurance of the enjoyment of his civil and political rights.

214. In case No. 1107/2002 (*El Ghar v. The Libyan Arab Jamahiriya*), the Committee found a violation of article 12, paragraph 2, and decided that the State party was under an obligation to ensure that the author had an effective remedy, including compensation, and urged the State party to issue the author with a passport without further delay.

215. In case No. 823/1998 (*Czernin v. The Czech Republic*), the Committee found a violation of article 14, paragraph 1, and decided that the State party was under an obligation to provide the author with an effective remedy, including the requirement that its administrative authorities act in conformity with the decisions of the Czech courts.

216. In case No. 971/2001 (*Arutyuniantz v. Uzbekistan*), the Committee found a violation of article 14, paragraph 2. It decided that the author was entitled to an appropriate remedy, including compensation and either a retrial or release.

217. In cases Nos. 1095/2002 (*Gomariz v. Spain*), 1101/2002 (*Alba Cabriada v. Spain*) and 1104/2002 (*Martínez Fernández v. Spain*), the Committee found violations of articles 14, paragraph 5. It decided that the authors were entitled to an effective remedy and that the respective convictions had to be reviewed in accordance with that provision.

218. In cases Nos. 975/2001 (*Ratiani v. Georgia*) and 1073/2002 (*Terrón v. Spain*), where the Committee also found a violation of article 14, paragraph 5, it decided that the State party was required to furnish the authors with an effective remedy, including adequate compensation.

219. In case No. 931/2000 (*Hudoyberganova v. Uzbekistan*), the Committee found a violation of article 18, paragraph 2, and decided that the State party was under an obligation to provide the author with an effective remedy. (See vol. II, annex VII, for the State party's reply.)

220. In case No. 1155/2003 (*Leirvåg et al. v. Norway*), the Committee found a violation of article 18, paragraph 4. It decided that the State party was under an obligation to provide the authors with an effective and appropriate remedy that would respect the right of the authors as parents to ensure and as pupils to receive an education that was in conformity with their own convictions. (See vol. II, annex VII, for the State party's reply.)

221. In case No. 945/2000 (*Marik v. The Czech Republic*), the Committee found a violation of article 26. It decided that the State party was under an obligation to provide the author with compensation and/or restitution of his property. It also reiterated that the State party should review its legislation regarding restitution of property.

222. In case No. 1089/2002 (*Rouse v. The Philippines*), the Committee found violations of articles 14, 9 and 7. It decided that the State party was under an obligation to provide the author with an effective remedy, including compensation, inter alia for the time of his detention and imprisonment.

223. In case No. 1207/2003 (*Malakhovsky v. Belarus*), the Committee found violations of article 18, paragraphs 1 and 3. It decided that the authors were entitled to an appropriate remedy, including reconsideration of their application, duly taking into account the provisions of the Covenant.

Notes

[1] All figures in this section cover the period up to 31 July 2005.

[2] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40* (A/52/40), vol. I, para. 467.

[3] Ibid., para. 469.

[4] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40* (A/52/40), vol. II, annex VI, sect. K.

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

224. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for the follow-up on Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

225. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights. A total of 391 Views out of the 503 Views adopted since 1979 concluded that there had been a violation of the Covenant.

226. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective; it is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all, or only relate to certain aspects of them. Certain replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an ex gratia basis.

227. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

228. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party has in fact given effect to the Committee's recommendations, even though the State party did not itself provide that information.

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of complying with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

230. Follow-up information provided by States parties and by petitioners or their representatives since the last annual report is set out in a new annex VII, contained in Volume II of the present annual report. This, more detailed, follow-up information also indicates action still outstanding in those cases that remain under review.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Angola (2)	711/1996, *Dias* A/55/40				X	X
	1128/2002, *Marques* A/60/40				X	X
Argentina (1)	400/1990, *Mónaco de Gallichio* A/50/40	X A/51/40	X			
Australia (10)	488/1992, *Toonen* A/49/40	X A/51/40	X			
	560/1993, *A.* A/52/40	X A/53/40, A/55/40, A/56/40		X		X
	802/1998, *Rogerson* A/58/40	Finding of a violation was considered sufficient	X			X
	900/1999, *C.* A/58/40	X A/58/40, CCPR/C/80/FU1 A/60/40 (annex VII)				
	930/2000, *Winata et al.* A/56/40	X CCPR/C/80/FU1, A/57/40, A/60/40 (annex VII)				X
	941/2000, *Young* A/58/40	X A/58/40, A/60/40 (annex VII)		X		X
	1014/2001, *Baban et al.* A/58/40	X A/60/40 (annex VII)		X		X
	1020/2001, *Cabal and Pasini* A/58/40	X A/58/40, CCPR/C/80/FU1		X		X
	1069/2002, *Bakhitiyari* A/59/40	X A/60/40 (annex VII)		X		X
	1011/2002, *Madaferri*, A/59/40				X	X
Austria (5)	415/1990, *Pauger* A/57/40	X A/47/40, A/52/40		X		X
	716/1996, *Pauger* A/54/40	X A/54/40, A/55/40, A/57/40, CCPR/C/80/FU1		X*		X
	**Note*: Although the State party has made amendments to its legislation as a result of the Committee's findings, the legislation is not retroactive and the author himself has not been provided with a remedy.					

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[a] The location refers to the document symbol of the *Official Records of the General Assembly, Supplement No. 40*, which is the annual report of the Committee to the respective sessions of the Assembly.

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Austria (*cont'd*)	965/2001, *Karakurt* A/57/40	X A/58/40, CCPR/C/80/FU1				X
	1086/2002, *Weiss* A/58/40	X A/58/40, A/59/40, CCPR/C/80/FU1, A/60/40				X
	1015/2991, *Perterer* A/59/40	X A/60/40				X
Belarus (6)	780/1997, *Lapsevich* A/55/40				X A/56/40, A/57/40	X
	814/1998, *Pastukhov* A/58/40				X A/59/40	X
	886/1999, *Bondarenko* A/58/40				X A/59/40	X
	887/1999, *Lyashkevich* A/58/40				X A/59/40	X
	921/2000, *Dergachev* A/57/40				X	X
	927/2000, *Svetik* A/59/40	X A/60/40 (annex VII)				X
Bolivia (2)	176/1984, *Peñarrieta* A/43/40	X A/52/40				X
	336/1988, *Fillastre and Bizouarne* A/52/40	X A/52/40	X			
Cameroon (3)	458/1991, *Mukong* A/49/40				X A/52/40	X
	630/1995, *Mazou* A/56/40	X A/57/40	X A/59/40			
	1134/2002, *Gorji-Dinka* A/60/40				X	X
Canada (11)	24/1977, *Lovelace* Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			
	27/1978, *Pinkney* Selected Decisions, vol. 1				X	X
	167/1984, *Ominayak et al.* A/45/40	X A/59/40*				X

**Note*: According to this report, information was provided on 25 November 1995, but was unpublished. It appears from the Follow-up file that in this response, the State party states that the remedy was to consist of a comprehensive package of benefits and programmes valued at $45 million and a 95-square-mile reserve. Negotiations were still ongoing as to whether the Band should receive additional compensation.

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Canada (*cont'd*)	359/1989, ***Ballantyne and Davidson*** A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 2 December 1993, but was unpublished. It appears from the Follow-up file that in this response, the State party stated that sections 58 and 68 of the Charter of the French Language, the legislation which was central to the communication, will be modified by Bill 86 (S.Q. 1993, c. 40). The date for the entry into force of the new law was to be around January 1994.					
	385/1989, ***McIntyre*** A/48/40	X*	X			
	**Note*: See footnote on case No. 359/1989 above.					
	455/1991, ***Singer*** A/49/40	Finding of a violation was considered sufficient	X			
	469/1991, ***Ng*** A/49/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 3 October 1994, but was unpublished. The State party transmitted the Views of the Committee to the Government of the United States of America and asked it for information concerning the method of execution currently in use in the State of California, where the author faced criminal charges. The Government of the United States of America informed Canada that the law in the State of California currently provided that an individual sentenced to capital punishment may choose between gas asphyxiation and lethal injection. In the event of a future request for an extradition where the death penalty is possible, the Views of the Committee in this communication will be taken into account.					
	633/1995, ***Gauthier*** A/54/40	X A/55/40, A/56/40, A/57/40	X A/59/40			
	694/1996, ***Waldman*** A/55/40	X A/55/40, A/56/40, A/57/40, A/59/40		X		X
	829/1998, ***Judge*** A/58/40	X A/59/40, A/60/40	X A/60/40			X* A/60/40
	**Note*: The Committee decided that it should monitor the outcome of the author's situation and take any appropriate action					
	1051/2002, ***Ahani*** A/59/40	X A/60/40		X		X* A/60/40
	**Note*: The State party went some way towards implementing the Views: the Committee has not specifically said that implementation was satisfactory.					
Central African Republic (1)	428/1990, ***Bozize*** A/49/40	X A/51/40	X A/51/40			
Colombia (13)	45/1979, ***Suárez de Guerrero*** Fifteenth session Selected Decisions, vol. 1	X A/52/40	X			
	46/1979, ***Fals Borda*** Sixteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	**Note*: In this case, the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 9 (4) of the Covenant. The State party stated that given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 does not recommend that compensation be paid to the victim.					

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Colombia (*cont'd*)	64/1979, *Salgar de Montejo* Fifteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	**Note*: In this case the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 14 (5) of the Covenant. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	161/1983, *Herrera Rubio* Thirty-first session Selected Decisions, vol. 2	X A/52/40*				X
	**Note*: The Committee recommended effective measures to remedy the violations that Mr. Herrera Rubio had suffered and further to investigate the violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future. The State party provided compensation to the victim.					
	181/1984, *Sanjuán Arévalo brothers* A/45/40	X A/52/40*		X		X
	**Note*: The Committee took this opportunity to indicate that it would welcome information on any relevant measures taken by the State party in respect of the Committee's Views and, in particular, invited the State party to inform the Committee of further developments in the investigation of the disappearance of the Sanjuán brothers. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	195/1985, *Delgado Paez* A/45/40	X A/52/40*				X
	**Note*: In accordance with the provisions of article 2 of the Covenant, the State party is under an obligation to take effective measures to remedy the violations suffered by the author, including the granting of appropriate compensation, and to ensure that similar violations do not occur in the future. The State party provided compensation.					
	514/1992, *Fei* A/50/40	X A/51/40*		X		X
	**Note*: The Committee recommended that the author be provided with an effective remedy. In the Committee's opinion, this entailed guaranteeing the author's regular access to her daughters, and the State party ensuring that the terms of the judgements in the author's favour were complied with. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	563/1993, *Bautista de Arellana* A/52/40	X A/52/40, A/57/40, A/58/40, A/59/40	X			
	612/1995, *Arhuacos* A/52/40				X	X
	687/1996, *Rojas García* A/56/40	X A/58/40, A/59/40				X
	778/1997, *Coronel et al.* A/58/40	X A/59/40				X
	848/1999, *Rodríguez Orejuela* A/57/40	X A/58/40, A/59/40		X		X
	859/1999, *Jiménez Vaca* A/57/40	X A/58/40, A/59/40		X		X
Croatia (1)	727/1996, *Paraga* A/56/40	X A/56/40, A/58/40				X

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Czech Republic (9)*	**Note*: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, *Simunek et al.* A/50/40	X A/51/40,* A/57/40, A/58/40				X
	**Note*: One author confirmed that the View's were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	823/1998, *Czernin* A/60/40				X	X
	586/1994, *Adam* A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40				X
	857/1999, *Blazek et al.* A/56/40	A/57/40				X
	765/1997, *Fábryová* A/57/40	X A/57/40, A/58/40				X
	774/1997, *Brok* A/57/40	X A/57/40, A/58/40				X
	747/1997, *Des Fours Walderode* A/57/40	X A/57/40, A/58/40				X
	757/1997, *Pezoldova* A/58/40	X A/60/40 (annex VII)				X
	946/2000, *Patera* A/57/40				X	X
Democratic Republic of the Congo (13)*	**Note*: See A/59/40 for details of follow-up consultations.					
	16/1977, *Mbenge* Eighteenth session Selected Decisions, vol. 2				X	X
	90/1981, *Luyeye* Nineteenth session Selected Decisions, vol. 2				X	X
	124/1982, *Muteba* Twenty-second session Selected Decisions, vol. 2				X	X
	138/1983, *Mpandanjila et al.* Twenty-seventh session Selected Decisions, vol. 2				X	X
	157/1983, *Mpaka Nsusu* Twenty-seventh session Selected Decisions, vol. 2				X	X
	194/1985, *Miango* Thirty-first session Selected Decisions, vol. 2				X	X

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Democratic Republic of the Congo (*cont'd*)	241/1987, *Birindwa* A/45/40				X	X
	242/1987, *Tshisekedi* A/45/40				X	X
	366/1989, *Kanana* A/49/40				X	X
	542/1993, *Tshishimbi* A/51/40				X	X
	641/1995, *Gedumbe* A/57/40				X	X
	933/2000, *Adrien Mundyo Bisyo et al.* (68 magistrates) A/58/40				X	X
	962/2001, *Marcel Mulezi* A/59/40				X	X
Denmark (1)	1222/2003, *Byaruhunga* A/60/40	X*				X
	**Note*: State party requested a reopening of consideration of the case.					
Dominican Republic (3)	188/1984, *Portorreal* Thirty-first session Selected Decisions, vol. 2.	X A/45/40	X A/45/40			
	193/1985, *Giry* A/45/40	X A/52/40, A/59/40		X		X
	449/1991, *Mojica* A/49/40	X A/52/40, A/59/40		X		X
Ecuador (5)	238/1987, *Bolaños* A/44/40	X A/45/40	X A/45/40			
	277/1988, *Terán Jijón* A/47/40	X A/59/40*		X		X
	**Note*: According to this report, information was provided on 11 June 1992, but was unpublished. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					
	319/1988, *Cañón García* A/47/40				X	X
	480/1991, *Fuenzalida* A/51/40	X A/53/40, A/54/40	X			
	481/1991, *Villacrés Ortega* A/52/40	X A/53/40, A/54/40	X			

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Equatorial Guinea (2)	414/1990, *Primo Essono* A/49/40				X	X
	468/1991, *Oló Bahamonde* A/49/40				X	X
Finland (5)	265/1987, *Vuolanne* A/44/40	X A/44/40	X			
	291/1988, *Torres* A/45/40	X A/45/40	X A/45/40			
	387/1989, *Karttunen* A/48/40	X A/54/40	X			
	412/1990, *Kivenmaa* A/49/40	X A/54/40	X			
	779/1997, *Äärelä et al.* A/57/40	X A/57/40, A/59/40				X
France (6)	196/1985, *Gueye et al.* A/44/40	X A/51/40	X			
	549/1993, *Hopu et Bessert* A/52/40	X A/53/40	X			
	666/1995 *Foin* A/55/40	Finding of a violation was considered sufficient	n.a.			
	689/1996, *Maille* A/55/40	Finding of a violation was considered sufficient	n.a.			
	690/1996, *Venier* A/55/40	Finding of a violation was considered sufficient	n.a.			
	691/1996, *Nicolas* A/55/40	Finding of a violation was considered sufficient	n.a.			
Georgia (4)	623/1995, *Domukovsky* A/53/40	X A/54/40	X			
	624/1995, *Tsiklauri* A/53/40	X A/54/40	X			
	626/1995, *Gelbekhiani* A/53/40	X A/54/40		X		X
	627/1995, *Dokvadze* A/53/40	X A/54/40		X		X
Guyana (6)	676/1996, *Yasseen and Thomas* A/53/40				X A/60/40	X
	728/1996, *Sahadeo* A/57/40				X A/60/40	X
	838/1998, *Hendriks* A/58/40				X A/60/40	X

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Guyana (*cont'd*)	811/1998, *Mulai* A/59/40				X A/60/40	X
	867/1999, *Smartt* A/59/40				X A/60/40	X
	912/2000, *Ganga* A/60/40				X A/60/40	X
Hungary (3)	410/1990, *Párkányi* A/47/40	X*		X		X
	**Note*: Follow-up information referred to in the State party's reply, dated February 1993 (unpublished), indicates that compensation cannot be paid to the author owing to lack of specific enabling legislation.					
	521/1992, *Kulomin* A/51/40	X A/52/40				X
	852/1999, *Borisenko* A/58/40	X A/58/40, A/59/40		X		X
Ireland (1)	819/1998, *Kavanagh* A/56/40	X A/57/40, A/58/40	X A/59/40, A/60/40			
Italy (1)	699/1996, *Maleki* A/54/40	X A/55/40		X		X
Jamaica (97)	92 cases*					X
	**Note*: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two cases it promised to investigate; in one case, 592/1994, *Clive Johnson*, it announced the author's release (see A/54/40). There were 36 general replies indicating that death sentences had been commuted. No follow-up replies were received in 31 cases.					
	695/1996, *Simpson* A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, *Higginson* A/57/40				X	X
	793/1998, *Pryce* A/59/40				X	X
	796/1998, *Reece* A/58/40				X	X
	797/1998, *Loban* A/59/40				X	X
	798/1998, *Howell* A/59/40				X	X
Latvia (1)	884/1999, *Ignatane* A/56/40	X A/57/40	X			
Lithuania (2)	836/1998, *Gelazauskas* A/58/40	X A/59/40	X			
	875/1999, *Filipovich* A/58/40	X A/59/40	X			

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Libyan Arab Jamahiriya (2)	440/1990, *El-Megreisi* A/49/40				X	X
	1107/2002, *El Ghar* A/60/40				X	X
Madagascar (4)	49/1979, *Marais* Eighteenth session Selected Decisions, vol. 2	A/52/40			X*	X
	**Note*: According to A/52/40, the author indicated that he was released. No further information was provided.					
	115/1982, *Wight* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X*	X
	**Note*: According to A/52/40, the author indicated that he was released. No further information was provided.					
	132/1982, *Jaona* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X	X
	155/1983, *Hammel* A/42/40 and Selected Decisions, vol. 2	A/52/40			X	X
Mauritius (1)	35/1978, *Aumeeruddy-Cziffa et al.* Twelfth session Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			
Namibia (2)	760/1997, *Diergaardt* A/55/40	X A/57/40	X A/57/40			
	919/2000, *Muller and Engelhard* A/57/40	X A/58/40	X A/59/40			
Netherlands (7)	172/1984, *Broeks* A/42/40	X A/59/40*	X			
	**Note*: The information was provided on 23 February 1995, but was unpublished (see A/59/40). The State party indicated that it had retroactively amended its legislation, thereby granting the author a satisfactory remedy. It referred to two cases subsequently considered by the Committee in which no violations of the Covenant were found, namely *Lei-van de Meer* (478/1991) and *Cavalcanti Araujo-Jongen* (418/1990), as the alleged inconsistency and/or deficiency had been corrected by the retrospective amendment embodied in the Act of 6 June 1991. Thus, as the situation was the same in the *Broeks* case the amendment embodied in the Act of 6 June 1991 afforded the author sufficient satisfaction.					
	182/1984, *Zwaan-de Vries* A/42/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 28 December 1990, but was unpublished. It appears from the Follow-up file that in this response author's counsel indicated that the author had received her benefits covering the two years she was unemployed.					
	305/1988, *van Alphen* A/45/40	X A/46/40	X			

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Netherlands (*cont'd*)	453/1991, *Coeriel* A/50/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 28 March 1995, but was unpublished. The State party submitted that although its legislation and policy in the field of the changing of names offer sufficient guarantees to prevent future violations of article 17 of the Covenant, out of respect for the Committee's opinion, the Government decided to ask the authors whether they still wished to change their names in line with their applications and if so, permission would be granted for such a change to be effected without costs.					
	786/1997, *Vos* A/54/40	X A/55/40		X		X
	846/1999, *Jansen-Gielen* A/56/40	X A/57/40	X A/59/40			
	976/2001, *Derksen* A/59/40	X A/60/40				X
New Zealand (1)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
Nicaragua (1)	328/1988, *Zelaya Blanco* A/49/40	X (incomplete) A/56/40, A/57/40, A/59/40				X
Norway (2)	631/1995, *Spakmo* A/55/40	X A/55/40	X			
	1155/2003, *Leirvåg* A/60/40	X	X*			
	**Note*: Additional follow-up information expected.					
Panama (2)	289/1988, *Wolf* A/47/40	X A/53/40				X
	473/1991, *Barroso* A/50/40	X A/53/40				X
Peru (10)	202/1986, *Ato del Avellanal* A/44/40	X A/52/40, A/59/40				X
	203/1986, *Muñoz Hermosa* A/44/40	X A/52/40, A/59/40				X
	263/1987, *González del Río* A/48/40	X A/52/40, A/59/40				X
	309/1988, *Orihuela Valenzuela* A/48/40	X A/52/40, A/59/40				X
	540/1993, *Celis Laureano* A/51/40				X A/59/40	X
	577/1994, *Polay Campos* A/53/40	X A/53/40, A/59/40				X
	678/1996, *Gutierrez Vivanco* A/57/40				X A/58/40, A/59/40	X
	688/1996, *de Arguedas* A/55/40	X A/58/40, A/59/40	X			

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Peru (*cont'd*)	906/1999, *Vargas-Machuca* A/57/40				X A/58/40, A/59/40	X
	981/2001, *Gomez Casafranca* A/58/40				X A/59/40	X
Philippines (6)	788/1997, *Cagas* A/57/40	X A/59/40, A/60/40				X
	868/1999, *Wilson* A/59/40	X A/60/40		X		X
	869/1999, *Piandiong et al.* A/56/40				X A/59/40	X
	1077/2002, *Carpo et al.* A/58/40	X A/59/40, A/60/40 (annex VII)		X		X
	1110/2002, *Rolando* A/60/40				X	X
	1167/2003, *Ramil Rayos* A/59/40				X	X
Republic of Korea (5)	518/1992, *Sohn* A/50/40	X A/60/40 (annex VII)				X
	574/1994, *Kim* A/54/40	X A/60/40 (annex VII)				X
	628/1995, *Park* A/54/40	X A/54/40				X
	878/1999, *Kang* A/58/40	X A/59/40				X
	926/2000, *Shin* A/59/40	X A/60/40 (annex VII)				X
Russian Federation (6)	770/1997, *Gridin* A/55/40	A/57/40, A/60/40 (annex VII)		X		X
	763/1997, *Lantsova* A/57/40	A/58/40, A/60/40 (annex VII)		X		X
	888/1999, *Telitsin* A/59/40	X A/60/40 (annex VII)				X
	712/1996, *Smirnova* A/59/40	X A/60/40 (annex VII)				X
	815/1997, *Dugin* A/59/40	X A/60/40 (annex VII)				X
	911/2000, *Nazarov* A/59/40	X A/60/40 (annex VII)				X
Saint Vincent and the Grenadines (1)	806/1998, *Thompson* A/56/40				X	X

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Senegal (1)	386/1989, *Famara Koné* A/50/40	X A/51/40, summary record of 1619th meeting held on 21 October 1997 (CCPR/C/SR.1619)	X			
Sierra Leone (3)	839/1998, *Mansaraj et al.* A/56/40	X A/57/40, A/59/40				X
	840/1998, *Gborie et al.* A/56/40	X A/57/40, A/59/40				X
	841/1998, *Sesay et al.* A/56/40	X A/57/40, A/59/40				X
Slovakia (1)	923/2000, *Mátyus* A/57/40	X A/58/40	X			
Spain (10)	493/1992, *Griffin* A/50/40	X A/59/40,* A/58/40				X
	**Note*: According to this report, information was provided in 1995, but was unpublished. It appears from the Follow-up file that in this response, dated 30 June 1995, the State party challenged the Committee's Views.					
	526/1993, *Hill* A/52/40	X A/53/40, A/56/40, A/58/40, A/59/40, A/60/40 (annex VII)	X			
	701/1996, *Gómez Vásquez* A/55/40	X A/56/40, A/57/40, A/58/40, A/60/40 (annex VII)				X
	864/1999, *Ruiz Agudo* A/58/40				X	X
	986/2001, *Semey* A/58/40	X A/59/40, A/60/40 (annex VII)				X
	1006/2001, *Muñoz* A/59/40				X	
	1007/2001, *Sineiro Fernando* A/58/40	X A/59/40, A/60/40 (annex VII)				X
	1073/2002, *Terón Jesús* A/60/40				X	X
	1101/2002, *Alba Cabriada* A/60/40				X	X
	1104/2002, *Martínez Fernández* A/60/40				X	X

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Sri Lanka (5)	916/2000, *Jayawardena* A/57/40	X A/58/40, A/59/40, A/60/40 (annex VII)				X
	950/2000, *Sarma* A/58/40	X A/59/40, A/60/40 (annex VII)				X
	909/2000, *Kankanamge* A/59/40	X A/60/40 (annex VII)				X
	1033/2001, *Nallaratnam* A/59/40	X A/60/40 (annex VII)				X
	1189/2003, *Fernando* A/60/40				X	X
Suriname (8)	146/1983, *Baboeram* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40				X
	148-154/1983 *Kamperveen, Riedewald, Leckie, Demrawsingh, Sohansingh, Rahman, Hoost* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40				X
Tajikistan (4)	964/2001, *Saidov* A/59/40	X A/60/40 (annex VII)				X
	973/2001, *Khalilov* A/60/40	X A/60/40 (annex VII)				X
	1096/2002, *Kurbanov* A/59/40	X A/59/40, A/60/40 (annex VII)				X
	1117/2002, *Khomidov* A/59/40	X A/60/40 (annex VII)				X
Togo (4)	422-424/1990, *Aduayom et al.* A/51/40	X A/56/40, A/57/40	X A/59/40			
	505/1992, *Ackla* A/51/40	X A/56/40, A/57/40	X A/59/40			
Trinidad and Tobago (24)	232/1987, *Pinto* A/45/40 and 512/1992, *Pinto* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	362/1989, *Soogrim* A/48/40	X A/51/40, A/52/40, A/53/40, A/58/40			X	X

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Trinidad and Tobago (*cont'd*)	434/1990, *Seerattan* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	447/1991, *Shalto* A/50/40	X A/51/40, A/52/40, A/53/40	X A/53/40			
	523/1992, *Neptune* A/51/40	X A/51/40, A/52/40, A/53/40, A/58/40		X		X
	533/1993, *Elahie* A/52/40				X	X
	554/1993, *La Vende* A/53/40				X	X
	555/1993, *Bickaroo* A/53/40				X	X
	569/1996, *Mathews* A/43/40				X	X
	580/1994, *Ashby* A/57/40				X	X
	594/1992, *Phillip* A/54/40				X	X
	672/1995, *Smart* A/53/40				X	X
	677/1996, *Teesdale* A/57/40				X	X
	683/1996, *Wanza* A/57/40				X	X
	684/1996, *Sahadath* A/57/40				X	X
	721/1996, *Boodoo* A/57/40				X	X
	752/1997, *Henry* A/54/40				X	X
	818/1998, *Sextus* A/56/40				X	X
	845/1998, *Kennedy* A/57/40	X			X A/58/40	X
	899/1999, *Francis et al* A/57/40	X			X A/58/40	X
	908/2000, *Evans* A/58/40				X	X

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Trinidad and Tobago (*cont'd*)	928/2000, *Sooklal* A/57/40				X	X
	938/2000, *Girjadat Siewpers et al.* A/59/40				X A/51/40, A/53/40	X
Ukraine (2)	726/1996, *Zheludkov* A/58/40	X A/58/40	X A/59/40			
	781/1997, *Aliev* A/58/40	X A/60/40 (annex VII)		X A/60/40		X
Uruguay (45)	**A**. [5/1977, *Massera* Seventh session 43/1979, *Caldas* Nineteenth session 63/1979, *Antonaccio* Fourteenth session 73/1980, *Izquierdo* Fifteenth session 80/1980, *Vasiliskis* Eighteenth session 83/1981, *Machado* Twentieth session 84/1981, *Dermis* Seventeenth session 85/1981, *Romero* Twenty-first session 88/1981, *Bequio* Eighteenth session 92/1981, *Nieto* Nineteenth session 103/1981, *Scarone* Twentieth session 105/1981, *Cabreira* Nineteenth session 109/1981, *Voituret* Twenty-first session 123/1982, *Lluberas* Twenty-first session] **B**. [103/1981, *Scarone* 73/1980, *Izquierdo* 92/1981, *Nieto* 85/1981, *Romero*]	X 43 follow-up replies received in A/59/40[a]	X (relating to cases D and G)	X (relating to cases A, B, C, E, F)		X

State party and number of cases with violation	Communication number, author and location[a]	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Uruguay (*cont'd*)	**C.** [63/1979, *Antonaccio* 80/1980, *Vasiliskis* 123/1982, *Lluberas*] **D.** [57/1979, *Martins* Fifteenth session 77/1980, *Liechtenstein* Eighteenth session 106/1981, *Montero* Eighteenth session 108/1981, *Nuñez* Nineteenth session] **E.** [4/1977, *Ramirez* Fourth session 6/1977, *Sequeiro* Sixth session 8/1977, *Perdomo* Ninth session 9/1977, *Valcada* Eighth session 10/1977, *Gonzalez* Fifteenth session 11/1977, *Motta* Tenth session 25/1978, *Massiotti* Sixteenth session 28/1978, *Weisz* Eleventh session 32/1978, *Touron* Twelfth session 33/1978, *Carballal* Twelfth session 37/1978, *De Boston* Twelfth session 44/1979, *Pietraroia* Twelfth session 52/1979, *Lopez Burgos* Thirteenth session 56/1979, *Celiberti* Thirteenth session					

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Uruguay (*cont'd*)	66/1980, *Schweizer* Seventeenth session 70/1980, *Simones* Fifteenth session 74/1980, *Estrella* Eighteenth session 110/1981, *Viana* Twenty-first session 139/1983, *Conteris* Twenty-fifth session 147/1983, *Gilboa* Twenty-sixth session 162/1983, *Acosta* Thirty-fourth session] **F.** [30/1978, ***Bleier*** Fifteenth session 84/1981, ***Barbato*** Seventeenth session 107/1981, *Quinteros* Nineteenth session] **G.** 34/1978, *Silva* Twelfth session					

Note*: Follow-up information was provided on 17 October 1991, but was unpublished. The list of cases under **A: the State party submitted that on 1 March 1985, the competence of the civil courts was re-established. The amnesty law of 8 March 1985 benefited all the individuals who had been involved as authors, accomplices or accessory participants in political crimes or crimes committed for political purposes committed from 1 January 1962 to 1 March 1985. The law allowed those individuals held responsible for intentional murder to have either their sentence reviewed or their conviction reduced. Pursuant to article 10 of the Law on National Pacification, all the individuals imprisoned under "measures of security" were released. In cases subjected to review, appellate courts either acquitted or convicted the individuals. By virtue of law 15.783 of 20 November, all the individuals who had previously held public office were entitled to resume their jobs. On cases under **B**: the State party states that these individuals were pardoned by virtue of law 15.737 and released on 10 March 1985. On cases under **C**: these individuals were released on 14 March 1985; their cases were included under law 15.737. On cases under **D**: from the date on which it entered into force, the amnesty law ended the regimes for the surveillance of individuals, pending arrest warrants; the restrictions on entering or exiting the country; and every official inquiry into crimes covered by the amnesty. From 8 March 1985, the issuance of travel documents was no longer subjected to any restriction. Samuel Liechtenstein, after his return to Hungary, resumed his position as the Head of the University of the Republic. On cases under **E**: from 1 March 1985, the possibility of filing an action for damages was open to all of the victims of human rights violations that had occurred during the de facto Government. From 1985 to date, 36 suits for damages have been filed, 22 of them related to arbitrary detention and 12 to the restitution of property. The Government settled Mr. López's case on 21 November 1990 by paying him US$ 200,000. The suit filed by Ms. Celiberti is still pending. Besides the above-mentioned cases, no other victim has filed a lawsuit against the State claiming compensation. On cases under **F**: on 22 December 1986, the Congress passed law 15.848, known as "the expiration of the State power to prosecute". The law extinguished the power of State authorities to prosecute crimes committed by military or police agents for political purposes or in the execution of orders given to them by their superiors before 1 March 1985. All pending proceedings were discontinued. On 16 April 1989, the law was confirmed by referendum. The law ordered the investigating judges to send reports submitted to the judiciary about victims of disappearances to the executive, for the latter to initiate inquiries.

State party and number of cases with violation	Communication number, author and location*	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
Uruguay (*cont'd*)	159/1983, *Cariboni* A/43/40 and Selected Decisions, vol. 2				X	X
	322/1988, *Rodríguez* A/49/40				X A/51/40	X
Uzbekistan (4)	911/2000, *Nazarov* A/59/40				X	X
	917/2000, *Arutyunyan* A/59/40	X A/60/40 (annex VII)		X A/60/40		X
	931/2000, *Hudoyberganova* A/60/40	X A/60/40 (annex VII)		X A/60/40		
	971/2001, *Arutyuniantz* A/60/40	X A/60/40 (annex VII)				X
Venezuela (1)	156/1983, *Solórzano* A/41/40 and Selected Decisions, vol. 2	X A/59/40*		X		X
	**Note*: According to this report, information was provided in 1995, but was unpublished. In its response, the State party stated that it had failed to contact the author's sister, and that the author had not initiated proceedings for compensation from the State party. It made no reference to any investigation carried out by the State, as requested by Committee.					
Zambia (6)	314/1988, *Bwalya* A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided in 1995, but was unpublished. The State party stated on 12 July 1995 that compensation had been paid to the author, that he had been released and that the matter was closed.					
	326/1988, *Kalenga* A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided in 1995, but was unpublished. The State party stated that compensation would be paid to the author. In a subsequent letter from the author, dated 4 June 1997, he states that he was unsatisfied with the sum offered and requested the Committee to intervene. The Committee replied that it was not within its remit to challenge, contest or re-evaluate the amount of compensation that was offered and that it would decline to intervene with the State party.					
	390/1990, *Lubuto* A/51/40				X	X
	768/1997, *Mukunto* A/54/40	X A/56/40, A/57/40, A/59/40, CCPR/C/80/FU1	X A/59/40			
	821/1998, *Chongwe* A/56/40	X A/56/40, A/57/40, A/59/40	X			
	856/1999, *Chambala* A/58/40				X	X

CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

231. In chapter VII of its annual report for 2003,[1] the Committee described the framework that it had set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,[2] an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2005.

232. Over the period covered by the present annual report, Mr. Yalden continued to act as the Committee's Special Rapporteur for follow-up on concluding observations at the Committee's eighty-second session. At that session, he presented his progress report to the Committee on intersessional developments and made recommendations, which prompted the Committee to take appropriate decisions on a State-by-State basis. At the Committee's eighty-third session, Mr. Rivas Posada was appointed to the position. At the eighty-fourth session, Mr. Rivas Posada submitted his progress report to the Committee on intersessional developments and made recommendations, which prompted the Committee to take appropriate decisions on a State-by-State basis.

233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

234. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

State party	Date information due	Date reply received	Further action
Seventy-first session (March 2001)			
Venezuela	6 April 2002	19 September 2002 (partial reply)	A complete response was requested to supplement the partial reply.

State party	Date information due	Date reply received	Further action
Seventy-first session (March 2001) (cont'd)			
Venezuela (*cont'd*)		7 May 2003 (further partial reply)	A complete response was requested to supplement the further partial reply.
		16 April 2004 (further partial reply)	
		24 June 2004 (further partial reply)	
		20 July 2004 (further partial reply)	A complete response was requested to supplement the further partial reply. Consultations have been scheduled for the eighty-fifth session.
Seventy-second session (July 2001)			
Netherlands	25 July 2002	9 April 2003 (interim reply)	At its seventy-eighth session, the Committee noted the State party's interim reply.
		17 August 2004 (second interim reply)	Two subsequent reminders have been dispatched to the State party with respect to its outstanding response on the issue of euthanasia.
		12 and 22 October 2004 (outstanding replies on issues of euthanasia)	The Committee requested the State party to fully address the issues in its next report.
Seventy-third session (October 2001) (no outstanding State party replies)			

State party	Date information due	Date reply received	Further action
Seventy-fourth session (March 2002)			
Sweden	3 April 2003	6 May 2003	At its seventy-eighth session, the Committee requested its Special Rapporteur to clarify certain issues with respect to paragraph 12 of the Committee's concluding observations with the State party arising from its response.
		1 December 2003 (further reply consequent to consultations)	At its seventy-ninth session, the Special Rapporteur met with a delegation of the State party to discuss these issues. The Committee decided to fix the date for the next report as provisionally decided.
		18 June 2004 (further reply submitted at request of the Special Rapporteur)	At its eightieth session, the Committee considered the further reply and requested the Special Rapporteur to maintain contact with the State party on the issue in question.
		25 June 2004 and 21 October 2004 (further replies provided submitted at request of the Special Rapporteur)	Clarification of certain points was requested by the Special Rapporteur.
		27 October 2004 (further reply provided submitted at request of the Special Rapporteur)	The Committee requested the State party to fully address the issues in its next report.

State party	Date information due	Date reply received	Further action
Seventy-fifth session (July 2002)			
Republic of Moldova	25 July 2003	-	After two reminders had failed to elicit a response, the Special Rapporteur met with a representative of the State party's delegation in New York at the Committee's the eightieth session. The delegation undertook to submit the next periodic report as scheduled by 1 August 2004, and said that follow-up information would be sent to the Committee in the event that it became available earlier. At the Committee's eighty-second session, a meeting was again held with a representative of the State party. The next periodic report, which is overdue, has yet to be submitted.
Seventy-sixth session (October 2002)			
Egypt	4 November 2003	26 September 2003 (partial reply)	At its eightieth session, the Committee noted the State party's partial reply. A response to paragraph 16 (c) was requested by the Special Rapporteur.
		22 October 2004 (further replies)	At its eighty-fourth session, the Committee decided to take no further action.
Togo	4 November 2003	5 March 2003 (partial reply)	A complete response was requested to supplement the partial reply.

State party	Date information due	Date reply received	Further action
Seventy-sixth session (October 2002) (cont'd)			
Togo (*cont'd*)			At its eighty-second session, the Special Rapporteur held consultations with representatives of the State party who supplied additional information and undertook to supply a complete response. A reminder was dispatched. Consultations have been scheduled for the eighty-fifth session.
Seventy-seventh session (March 2003)			
Mali	3 April 2004	-	No reply received, despite reminders. Consultations have been scheduled for the eighty-fifth session.
Seventy-eighth session (October 2003)			
El Salvador	7 August 2004	12 November 2003 (partial reply)	
		22 December 2003 (further partial reply)	A complete response was requested to supplement the partial replies. Consultations have been scheduled for the eighty-fifth session.
Israel	7 August 2004	-	A reminder was dispatched. Consultations have been scheduled for the eighty-fifth session.
Slovakia	7 August 2004	6 November 2003 (partial reply)	
		18 November 2004 (further reply)	At its eighty-fourth session, the Committee decided to take no further action.

State party	Date information due	Date reply received	Further action
Seventy-ninth session (October 2003)			
Latvia	7 November 2004	15 November 2004	At its eighty-fourth session, the Committee decided to take no further action.
Philippines	7 November 2004	7 July 2005	Decision on further action will be required at the eighty-fifth session.
Sri Lanka	7 November 2004	Advised of forthcoming reply.	-
Russian Federation	7 November 2004	2 February 2005	At its eighty-fourth session, the Committee decided to take no further action.
Eightieth session (March 2004)			
Colombia	1 April 2004	-	A reminder was dispatched. Consultations have been scheduled for the eighty-fifth session.
Germany	1 April 2004	8 March 2005	At its eighty-fourth session, the Committee decided to take no further action.
Lithuania	1 April 2004	18 March 2005	At its eighty-fourth session, the Committee decided to take no further action.
Suriname	1 April 2004	-	A reminder was dispatched. Consultations have been scheduled for the eighty-fifth session.
Uganda	1 April 2004	25 May 2004 (partial reply)	A complete response was requested within the applicable one-year time frame to supplement the partial reply. Consultations have been scheduled for the eighty-fifth session.

State party	Date information due	Date reply received	Further action
Eighty-first session (July 2004)			
Belgium	29 July 2005	-	-
Liechtenstein	29 July 2005	-	-
Namibia	29 July 2005	-	-
Serbia and Montenegro	29 July 2005	4 November 2004 (on Kosovo) and 24 November 2004 (confirming further replies to come within one-year time frame) 11 July 2005 (complete reply)	Decision on further action will be required at the eighty-fifth session.
Eighty-second session (October 2004)			
Albania	4 November 2005	-	-
Benin	4 November 2005	-	-
Morocco*	4 November 2005	9 February 2005	At its eighty-fourth session, the Committee decided to take no further action.
Poland	4 November 2005	-	-
Eighty-third session (March 2005)			
Greece	31 March 2006	-	-
Iceland	31 March 2006	-	-

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* *Note*: The Committee's concluding observations on Morocco identified priority areas, but rather than asking for information within a year, a full treatment in the next report was sought.

State party	Date information due	Date reply received	Further action
Eighty-third session (March 2005) (cont'd)			
Kenya	31 March 2006	-	Decision on further action will be required at the eighty-fifth session
Mauritius	31 March 2006	-	-
Uzbekistan	31 March 2006	-	-

Notes

[1] *Official Records of the General Assembly, fifty-eighth session, Supplement No. 40* (A/58/40), vol. I.

[2] Ibid, *Fifty-ninth session, Supplement No. 40* (A/59/40), vol. I.

Annex I

STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 31 JULY 2005

A. States parties to the International Covenant on Civil and Political Rights (155)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	[b]
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Bangladesh	7 September 2000	7 December 2000
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976

State party	Date of receipt of the instrument of ratification	Date of entry into force
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Eritrea	22 January 2002[a]	22 April 2002
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	6 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979

State party	Date of receipt of the instrument of ratification	Date of entry into force
India	10 April 1979[a]	10 July 1979
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]		
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	[b]
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Liberia	22 September 2004	22 December 2004
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritania	17 November 2004[a]	17 February 2005
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979

State party	Date of receipt of the instrument of ratification	Date of entry into force
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia and Montenegro[e]	12 March 2001	[a]
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998[a]	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Swaziland	26 March 2004[a]	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999[a]	[b]

State party	Date of receipt of the instrument of ratification	Date of entry into force
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994[c]	17 September 1991
Timor-Leste	18 September 2003[a]	18 December 2003
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	15 September 2003	15 December 2003
Turkmenistan	1 May 1997[a]	[b]
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	[b]
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

Note: In addition to the States parties listed above, the Covenant continues to apply in the Hong Kong Special Administrative Region of China and the Macau Special Administrative Region of China.[f]

B. States parties to the Optional Protocol (105)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Algeria	12 September 1989[a]	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	25 September 1991[a]	25 December 1991

State party	Date of receipt of the instrument of ratification	Date of entry into force
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001	27 February 2002
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995[a]	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994

State party	Date of receipt of the instrument of ratification	Date of entry into force
Germany	25 August 1993	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Guatemala	28 November 2000	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana[g]	10 May 1993[a]	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Kyrgyzstan	7 October 1995[a]	7 January 1996
Latvia	22 June 1994[a]	22 September 1994
Lesotho	7 September 2000	7 December 2000
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Mali	24 October 2001	24 January 2002
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	15 March 2002	15 June 2002
Mongolia	16 April 1991[a]	16 July 1991
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981

State party	Date of receipt of the instrument of ratification	Date of entry into force
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia and Montenegro[e]	6 September 2001	6 December 2001
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
South Africa	28 August 2002	28 November 2002
Spain	25 January 1985[a]	25 April 1985
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

Note: Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (54)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Bulgaria	10 August 1999	10 November 1999
Cape Verde	19 May 2000[a]	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995[a]	12 January 1996
Czech Republic	15 June 2004	15 September 2004
Cyprus	10 September 1999	10 December 1999
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002[a]	5 February 2003
Ecuador	23 February 1993[a]	23 May 1993
Estonia	30 January 2004	30 April 2004
Finland	4 April 1991	11 July 1991
Georgia	22 March 1999[a]	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Liechtenstein	10 December 1998	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Monaco	28 March 2000[a]	28 June 2000
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991

State party	Date of receipt of the instrument of ratification	Date of entry into force
Panama	21 January 1993[a]	21 April 1993
Paraguay	18 August 2003	18 November 2003
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
San Marino	17 August 2003 [a]	17 November 2004
Serbia and Montenegro[e]	6 September 2001[a]	6 December 2001
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999[a]	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002[a]	28 November 2002
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Timor-Leste	18 September 2003	18 December 2003
Turkmenistan	11 January 2000[a]	11 April 2000
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (48)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely

State party	Valid from	Valid until
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Ghana	7 September 2000	Indefinitely
Germany	28 March 1976	10 May 2006
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	30 January 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	16 June 2005	16 June 2010
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely

State party	Valid from	Valid until
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[e] The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (Federal Republic of Yugoslavia) was admitted to the United Nations by General Assembly resolution 55/12 of 1 November 2000. According to a subsequent declaration, the Federal Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. It is the established practice of the Committee that the people within the territory of a State which constituted part of a former State party to the Covenant continue to be entitled to the guarantees recognized in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State of the Federal Republic of Yugoslavia was changed to "Serbia and Montenegro".

[f] For information on the application of the Covenant in the Hong Kong Special Administrative Region of China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), chap. V, sect. B, paras. 78-85. For information on the application of the Covenant in Macau Special Administrative Region, see ibid., *Fifty-fifth Session, Supplement No. 40* (A/55/40), chap. IV.

[g] Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to reservations, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

Annex II

MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 2004-2005

A. Membership of the Human Rights Committee

Eighty-second session

Mr. Abdelfattah AMOR**	Tunisia
Mr. Nisuke ANDO**	Japan
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Mr. Alfredo CASTILLERO HOYOS**	Panama
Ms. Christine CHANET**	France
Mr. Franco DEPASQUALE*	Malta
Mr. Maurice GLÈLÈ-AHANHANZO*	Benin
Mr. Walter KÄLIN**	Switzerland
Mr. Ahmed Tawfik KHALIL*	Egypt
Mr. Rajsoomer LALLAH*	Mauritius
Mr. Rafael RIVAS POSADA*	Colombia
Sir Nigel RODLEY*	United Kingdom of Great Britain and Northern Ireland
Mr. Martin SCHEININ*	Finland
Mr. Ivan SHEARER*	Australia
Mr. Hipólito SOLARI YRIGOYEN**	Argentina
Ms. Ruth WEDGWOOD**	United States of America
Mr. Roman WIERUSZEWSKI**	Poland
Mr. Maxwell YALDEN*	Canada

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* Term expires on 31 December 2004.

** Term expires on 31 December 2006.

Eighty-third and eighty-fourth sessions

Mr. Abdelfattah AMOR*	Tunisia
Mr. Nisuke ANDO*	Japan
Mr. Prafullachandra Natwarlal BHAGWATI*	India
Mr. Alfredo CASTILLERO HOYOS*	Panama
Ms. Christine CHANET*	France
Mr. Maurice GLÈLÈ-AHANHANZO**	Benin
Mr. Edwin JOHNSON LOPEZ**	Ecuador
Mr. Walter KÄLIN*	Switzerland
Mr. Ahmed Tawfik KHALIL**	Egypt
Mr. Rajsoomer LALLAH**	Mauritius
Mr. Michael O'FLAHERTY**	Ireland
Ms. Elisabeth PALM**	Sweden
Mr. Rafael RIVAS POSADA**	Colombia
Sir Nigel RODLEY**	United Kingdom of Great Britain and Northern Ireland
Mr. Ivan SHEARER**	Australia
Mr. Hipólito SOLARI YRIGOYEN*	Argentina
Ms. Ruth WEDGWOOD*	United States of America
Mr. Roman WIERUSZEWSKI*	Poland

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* Term expires on 31 December 2006.

** Term expires on 31 December 2008.

B. Officers

Eighty-second session

The officers of the Committee, elected for a term of two years at the 2070th meeting, on 17 March 2003 (seventy-seventh session), are the following:

Chairperson:	Mr. Abdelfattah Amor
Vice-Chairpersons:	Mr. Rafael Rivas Posada Sir Nigel Rodley Mr. Roman Wieruszewski
Rapporteur:	Mr. Ivan Shearer

Eighty-third and eighty-fourth sessions

The officers of the Committee, elected for a term of two years at the 2254th meeting, on 14 March 2005 (eighty-third session), are the following:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

Annex III

SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (STATUS AS OF 31 JULY 2005)

State party	Type of report	Date due	Date of submission
Afghanistan	Second periodic	23 April 1989	25 October 1991[a]
Albania	Second periodic	1 November 2008	Not yet due
Algeria	Third periodic	1 June 2000	Not yet received
Angola	Initial/Special	9 April 1993/ 31 January 1994	Not yet received
Argentina	Fourth periodic	31 October 2005	Not yet due
Armenia	Second periodic	1 October 2001	Not yet received
Australia	Fifth periodic	31 July 2005	Not yet received
Austria	Fourth periodic	1 October 2002	Not yet received
Azerbaijan	Third periodic	1 November 2005	Not yet due
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Third periodic	11 April 1991	Not yet received[b]
Belarus	Fifth periodic	7 November 2001	Not yet received
Belgium	Fifth periodic	1 August 2008	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Second periodic	1 November 2008	Not yet due
Bolivia	Third periodic	31 December 1999	Not yet received
Bosnia and Herzegovina	Initial	5 March 1993	Not yet received
Botswana	Initial	8 December 2001	Not yet received
Brazil	Second periodic	23 April 1998	15 November 2004
Bulgaria	Third periodic	31 December 1994	Not yet received
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second periodic	8 August 1996	Not yet received
Cambodia	Second periodic	31 July 2002	Not yet received
Cameroon	Fourth periodic	31 October 2003	Not yet received
Canada	Fifth periodic	30 April 2004	17 November 2004
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Second periodic	9 April 1989	11 April 2005[c]
Chad	Initial	8 September 1996	Not yet received
Chile	Fifth periodic	28 April 2002	Not yet received
Colombia	Sixth periodic	1 April 2008	Not yet due

State party	Type of report	Date due	Date of submission
Congo	Third periodic	31 March 2003	Not yet received
Costa Rica	Fifth periodic	30 April 2004	Not yet received
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Second periodic	1 April 2005	Not yet received
Cyprus	Fourth periodic	1 June 2002	Not yet received
Czech Republic	Second periodic	1 August 2005	Not yet received
Democratic People's Republic of Korea	Third periodic	1 January 2004	Not yet received
Democratic Republic of the Congo	Third periodic	31 July 1991	30 March 2005
Denmark	Fifth periodic	31 October 2005	Not yet due
Djibouti	Initial	5 February 2004	Not yet received
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fifth periodic	1 April 2005	Not yet received
Ecuador	Fifth periodic	1 June 2001	Not yet received
Egypt	Fourth periodic	1 November 2004	Not yet received
El Salvador	Fourth periodic	1 August 2007	Not yet due
Equatorial Guinea	Initial	24 December 1988	Not yet received[c]
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Third periodic	1 April 2007	Not yet due
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Sixth periodic	1 November 2009	Not yet due
France	Fourth periodic	31 December 2000	Not yet received
Gabon	Third periodic	31 October 2003	Not yet received
Gambia	Second periodic	21 June 1985	Not yet received[c]
Georgia	Third periodic	1 April 2006	Not yet due
Germany	Sixth periodic	1 April 2009	Not yet due
Ghana	Initial	8 February 2001	Not yet received
Greece	Second periodic	1 April 2009	Not yet due
Grenada	Initial	5 December 1992	Not yet received
Guatemala	Third periodic	1 August 2005	Not yet received
Guinea	Third periodic	30 September 1994	Not yet received
Guyana	Third periodic	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	Not yet received
Honduras	Initial	24 November 1998	21 February 2005
Hong Kong Special Administrative Region (China)[d]	Second periodic (China)	31 October 2003	14 February 2005
Hungary	Fifth periodic	1 April 2007	Not yet due

State party	Type of report	Date due	Date of submission
Iceland	Fifth periodic	1 April 2010	Not yet due
India	Fourth periodic	31 December 2001	Not yet received
Iran (Islamic Republic of)	Third periodic	31 December 1994	Not yet received
Iraq	Fifth periodic	4 April 2000	Not yet received
Ireland	Third periodic	31 July 2005	Not yet received
Israel	Third periodic	1 August 2007	Not yet due
Italy	Fifth periodic	1 June 2002	19 March 2004
Jamaica	Third periodic	7 November 2001	Not yet received
Japan	Fifth periodic	31 October 2002	Not yet received
Jordan	Fourth periodic	21 January 1997	Not yet received
Kazakhstan[e]			
Kenya	Third periodic	1 April 2008	Not yet due
Kuwait	Second periodic	31 July 2004	Not yet received
Kyrgyzstan	Second periodic	31 July 2004	Not yet received
Latvia	Third periodic	1 November 2008	Not yet due
Liberia	Initial	22 December 2005	Not yet due
Lebanon	Third periodic	31 December 1999	Not yet received
Lesotho	Second periodic	30 April 2002	Not yet received
Libyan Arab Jamahiriya	Fourth periodic	1 October 2002	Not yet received
Liechtenstein	Second periodic	1 September 2009	Not yet due
Lithuania	Third periodic	1 November 2009	Not yet due
Luxembourg	Fourth periodic	1 April 2008	Not yet due
Madagascar	Third periodic	30 July 1992	24 May 2005
Malawi	Initial	21 March 1995	Not yet received
Mali	Third periodic	1 April 2005	Not yet received
Macau Special Administrative Region (China)[d]	Initial (China)	31 October 2001	Not yet received
Malta	Second periodic	12 December 1996	Not yet received
Mauritania	Initial	17 February 2006	Not yet due
Mauritius	Fifth periodic	1 April 2010	Not yet due
Mexico	Fifth periodic	30 July 2002	Not yet received
Monaco	Second periodic	1 August 2006	Not yet due
Mongolia	Fifth periodic	31 March 2003	Not yet received
Morocco	Sixth periodic	1 November 2008	Not yet due
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Second periodic	1 August 2008	Not yet due

State party	Type of report	Date due	Date of submission
Nepal	Second periodic	13 August 1997	Not yet received
Netherlands	Fourth periodic	1 August 2006	Not yet due
Netherlands (Antilles)	Fourth periodic	1 August 2006	Not yet due
Netherlands (Aruba)	Fifth periodic	1 August 2006	Not yet due
New Zealand	Fifth periodic	1 August 2007	Not yet due
Nicaragua	Third periodic	11 June 1991	Not yet received
Niger	Second periodic	31 March 1994	Not yet received
Nigeria	Second periodic	28 October 1999	Not yet received
Norway	Fifth periodic	31 October 2004	30 November 2004
Panama	Third periodic	31 March 1992	Not yet received
Paraguay	Second periodic	9 September 1998	9 July 2004
Peru	Fifth periodic	31 October 2003	Not yet received
Philippines	Third periodic	1 November 2006	Not yet due
Poland	Sixth periodic	1 November 2008	Not yet due
Portugal	Fourth periodic	1 August 2008	Not yet due
Republic of Korea	Third periodic	31 October 2003	10 February 2005
Republic of Moldova	Second periodic	1 August 2004	Not yet received
Romania	Fifth periodic	28 April 1999	Not yet received
Russian Federation	Sixth periodic	1 November 2007	Not yet due
Rwanda	Third periodic	10 April 1992	Not yet received
	Special[f]	31 January 1995	Not yet received
Saint Vincent and the Grenadines	Second periodic	31 October 1991	Not yet received
San Marino	Second periodic	17 January 1992	Not yet received
Senegal	Fifth periodic	4 April 2000	Not yet received
Serbia and Montenegro	Second periodic	1 August 2008	Not yet due
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third periodic	1 August 2007	Not yet due
Slovenia	Third periodic	1 August 2010	Not yet due
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Fifth periodic	28 April 1999	Not yet received
Sri Lanka	Fifth periodic	1 November 2007	Not yet due
Sudan	Third periodic/ Special	7 November 2001/ 31 December 2005	Not yet received[g]
Suriname	Third periodic	1 April 2008	Not yet due
Swaziland	Initial	27 June 2005	Not yet received

State party	Type of report	Date due	Date of submission
Sweden	Sixth periodic	1 April 2007	Not yet due
Switzerland	Third periodic	1 November 2006	Not yet due
Syrian Arab Republic	Fourth periodic	1 August 2009	Not yet due
Tajikistan	Second periodic	31 July 2008	Not yet due
Thailand	Second periodic	1 August 2009	Not yet due
The former Yugoslav Republic of Macedonia	Second periodic	1 June 2000	Not yet received
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fourth periodic	1 November 2004	Not yet received
Trinidad and Tobago	Fifth periodic	31 October 2003	Not yet received
Tunisia	Fifth periodic	4 February 1998	Not yet received
Turkey	Initial	16 December 2004	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Second periodic	1 April 2008	Not yet due
Ukraine	Sixth periodic	1 November 2005	Not yet due
United Kingdom of Great Britain and Northern Ireland	Sixth periodic	1 November 2006	Not yet due
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Sixth periodic	1 November 2006	Not yet due
United Republic of Tanzania	Fourth periodic	1 June 2002	Not yet received
United States of America	Second and third periodic/Specific information	7 September 1998/ 31 December 2004	Not yet received[h]
Uruguay	Fifth periodic	21 March 2003	Not yet received
Uzbekistan	Third periodic	1 April 2008	Not yet due
Venezuela (Bolivarian Republic of)	Fourth periodic	1 April 2005	Not yet received
Viet Nam	Third periodic	1 August 2004	Not yet received
Yemen	Fifth periodic	1 July 2009	Not yet due
Zambia	Third periodic	30 June 1998	Not yet received
Zimbabwe	Second periodic	1 June 2002	Not yet received

Notes

[a] At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating its report before 15 May 1996 for consideration at the fifty-seventh session. No additional information was received. At its sixty-seventh session, the Committee invited Afghanistan to present its report at the sixty-eighth session. The State party asked for a postponement. At the seventy-third session, the Committee decided to postpone consideration of Afghanistan to a later date, pending consolidation of the new Government.

[b] The Committee considered the situation of civil and political rights in Barbados during its eighty-third session in the absence of a report but in the presence of a delegation. The State party pledged to submit its third periodic report by the end of 2005. Provisional concluding observations were sent to the State party.

[c] The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in Equatorial Guinea was considered during the seventy-ninth session without a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in the Central African Republic was considered during the eighty-first session without a report but in the presence of a delegation. The State party pledged to submit its second periodic report by the end of March 2005. Provisional concluding observations were sent to the State party. The Central African Republic submitted its report on 11 April 2005.

[d] Although not itself a party to the Covenant, the Government of China has assumed the reporting obligation under article 40 with respect to the Hong Kong and Macau Special Administrative Regions, which were previously under British and Portuguese administration, respectively.

[e] Although a declaration of succession has not been received, the people within the territory of the State, which constituted part of a former State party to the Covenant, continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[f] Pursuant to the Committee's decision of 27 October 1994 (fifty-second session) (see *Official Records of the General Assembly, Fiftieth Session, Supplement No. 40* (A/50/40), vol. I, chap. IV, sect. B), Rwanda was requested to submit by 31 January 1995 a report relating

to recent and current events affecting the implementation of the Covenant in the country for consideration at the fifty-third session. During its sixty-eighth session, two members of the Bureau of the Committee met in New York with the Ambassador of Rwanda to the United Nations, who undertook to submit the overdue reports in the course of the year 2000.

[g] On 1 April 2005, during its eighty-third session, the Committee requested the Government of the Sudan to submit, by 31 December 2005, a specific report on the implementation of articles 6, 7, 8, 9, 12 and 16 of the Covenant.

[h] See Chapter II, para. 75, of the present report.

Annex IV

STATUS OF REPORTS AND SITUATIONS CONSIDERED DURING THE PERIOD UNDER REVIEW AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE

State party	Date due	Date of submission	Status	Reference documents
		A. Initial reports		
Albania	3 January 1993	2 February 2004	Considered on 19 and 20 October 2004 (eighty-second session)	CCPR/C/ALB/2004/1 CCPR/CO/82/ALB CCPR/C/SR.2228 CCPR/C/SR.2229 CCPR/C/SR.2230 CCPR/C/SR.2245
Benin	11 June 1993	1 February 2004	Considered on 21 and 22 October 2004 (eighty-second session)	CCPR/C/BEN/2004/1 CCPR/CO/82/BEN CCPR/C/SR.2232 CCPR/C/SR.2233 CCPR/C/SR.2234 CCPR/C/SR.2248
Greece	4 August 1998	5 April 2004	Considered on 22 and 23 March 2005 (eighty-third session)	CCPR/C/GRC/2004/1 CCPR/CO/83/GRC CCPR/C/SR.2267 CCPR/C/SR.2268 CCPR/C/SR.2269 CCPR/C/SR.2279
Honduras	24 November 1998	21 February 2005	In translation. Scheduled for consideration at a later session	CCPR/C/HND/2005/1
Thailand	28 January 1998	22 June 2004	Considered on 19 and 20 July 2005 (eighty-fourth session)	CCPR/C/THA/2004/1 CCPR/CO/84/THA CCPR/C/SR.2293 CCPR/C/SR.2294 CCPR/C/SR.2295 CCPR/C/SR.2307
Tajikistan	3 April 2000	16 July 2004	Considered on 13 and 14 July 2005 (eighty-fourth session)	CCPR/C/TJK/2004/1 CCPR/CO/84/TJK CCPR/C/SR. 2285 CCPR/C/SR.2286 CCPR/C/SR.2287 CCPR/C/SR.2299

State party	Date due	Date of submission	Status	Reference documents
B. Second periodic reports				
Brazil	23 April 1998	15 November 2004	Scheduled for consideration during the eighty-fifth session	CCPR/C/BRA/2004/2 CCPR/C/85/L/BRA
Hong Kong Special Administrative Region (China)	31 October 2003	14 February 2005	In translation. Scheduled for consideration at a later session	CCPR/C/KHG/2005/2
Kenya	11 April 1986	27 September 2004	Considered on 14 and 15 March 2005 (eighty-third session)	CCPR/C/KEN/2004/2 CCPR/CO/83/KEN CCPR/C/SR.2255 CCPR/C/SR.2256 CCPR/C/SR.2271
Paraguay	9 September 1998	9 July 2004	Scheduled for consideration during the eighty-fifth session	CCPR/C/PRY/2004/2 CCPR/C/85/L/PRY
Central African Republic	9 April 1989	11 April 2005	In translation. Scheduled for consideration at a later session	CCPR/C/CAR/2005/2
Slovenia	24 June 1997	23 August 2004	Considered on 14 and 15 July 2005 (eighty-fourth session)	CCPR/C/SVN/2004/2 CCPR/CO/84/SVN CCPR/C/SR.2288 CCPR/C/SR.2289 CCPR/C/SR.2302
Uzbekistan	1 April 2004	14 April 2004	Considered on 21 and 22 March 2005 (eighty-third session)	CCPR/C/UZB/2004/2 CCPR/CO/83/UZB CCPR/C/SR.2265 CCPR/C/SR.2266 CCPR/C/SR.2267 CCPR/C/SR.2278 CCPR/C/SR.2279
C. Third periodic reports				
Barbados	11 April 1991	Not yet received	Situation considered in the absence of a report but in the presence of a delegation on 24 March 2005 (eighty-third session)	CCPR/CO/84/L/BAR CCPR/C/SR.2270 CCPR/C/SR.2271 CCPR/C/SR.2277
Democratic Republic of the Congo	31 July 1991	30 March 2005	In translation. Scheduled for consideration at a later session	CCPR/C/RDC/2005/3

State party	Date due	Date of submission	Status	Reference documents
Republic of Korea	31 October 2003	10 February 2005	In translation. Scheduled for consideration at a later session	CCPR/C/KOR/2005/3
Madagascar	30 July 1992	24 May 2005	In translation. Scheduled for consideration at a later session	CCPR/C/MDG/2005/3
Nicaragua	11 June 1991	Not yet received	Report to be submitted by 31 December 2005	
Syrian Arab Republic	1 April 2003	5 July 2004	Considered on 18 July 2005 (eighty-fourth session)	CCPR/C/SYR/2004/3 CCPR/CO/84/SYR CCPR/C/SR.2291 CCPR/C/SR.2292 CCPR/C/SR.2308

D. Fourth periodic reports

Iceland	30 October 2003	15 June 2004	Considered on 16 March 2005 (eighty-third session)	CCPR/C/ISL/2004/4 CCPR/CO/83/ISL CCPR/C/SR.2258 CCPR/C/SR.2259 CCPR/C/SR.2272
Mauritius	30 June 1998	27 May 2004	Considered on 17 and 18 March 2005 (eighty-third session)	CCPR/C/MUS/2004/4 CCPR/CO/83/MUS CCPR/C/SR.2261 CCPR/C/SR.2262 CCPR/C/SR.2278
Yemen	1 August 2004	21 July 2004	Considered on 11 and 12 July 2005 (eighty-fourth session)	CCPR/C/YEM/2004/4 CCPR/CO/84/YEM CCPR/C/SR.2282 CCPR/C/SR.2283 CCPR/C/SR.2298

E. Fifth periodic reports

Canada	30 April 2004	17 November 2004	Scheduled for consideration during the eighty-fifth session	CCPR/C/CAN/2002/5 CCPR/C/85/L/CAN
Italy	1 June 2002	19 March 2004	Scheduled for consideration during the eighty-fifth session. List of issues adopted during the eighty-third session	CCPR/C/ITA/2004/5 CCPR/C/84/L/ITA

State party	Date due	Date of submission	Status	Reference documents
Finland	1 June 2003	17 June 2003	Considered on 18 and 19 October 2004 (eighty-second session)	CCPR/C/FIN/2003/5 CCPR/CO/82/FIN CCPR/C/SR.2226 CCPR/C/SR.2227 CCPR/C/SR.2239
Morocco	31 October 2003	10 March 2004	Considered on 25 and 26 October 2004 (eighty-second session)	CCPR/C/MAR/2004/5 CCPR/CO/82/MAR CCPR/C/SR.2234 CCPR/C/SR.2235 CCPR/C/SR.2236 CCPR/C/SR.2249
Norway	31 October 2004	30 November 2004	In translation. Scheduled for consideration at a later session	CCPR/C/NOR/2004/5
Poland	31 July 2003	21 January 2004	Considered on 27 and 28 October 2004 (eighty-second session)	CCPR/C/POL/2004/5 CCPR/CO/82/POL CCPR/C/SR.2240 CCPR/C/SR.2241 CCPR/C/SR.2251
